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JOURNAL OF THE SENATE

SPECIAL SESSION OF 1976

Tuesday, 30 December 75

The Senate met at 11 a.m.

Prayer was offered by the President of the Senate, Alf Jacobson.

Our Father, as the Senate gathers this day to engage itself with the public interest, we would pause to ask Thy guidance upon our deliberations. May Thy spirit imbue us so that we may seek resolution, not confrontation; may the strength of our deliberations show forth in our concern for human welfare. Give us the insight to rise above personal idiosyncrasies so that we may see the higher plain of the common congregation. Entrust to us those skills with which we may accomplish what is required and avoid the rash or dilatory. Grant us the ability to use our power without abuse or arrogance so that the common goals of human betterment may be realized. In all these things, may our love for Thee and each other be steadily enriched. Amen.

The Pledge of Allegiance was led by Senator Bossie.

ROLL OF THE SENATE

The Clerk called the roll which showed the following Senators to be present: Sen. Laurier Lamontagne, Andrew W. Poulsen, Stephen W. Smith, Edith B. Gardner, David Hammond Bradley, Louis E. Bergeron, Alf E. Jacobson, James A. Saggiotes, Robert B. Monier, Clesson J. Blaisdell, C. R. Trowbridge, D. Alan Rock, John H. McLaughlin, Thomas J. Claveau, Richard F. Ferdinando, William E. Sanborn, Paul E. Provost, Ward B. Brown, Robert F. Bossie, Robert Fennelly, Delbert F. Downing, Robert F. Preston and Eileen Foley.

INTRODUCTION OF SENATE BILLS

Sen. Brown moved the following resolutions:

Resolved, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 1, 2, 3, 4, 5 and 6 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

SB 1, delaying the effective date of health and accident insurance coverage for mental illness for 6 months. (Jacobson of Dist. 7; Smith of Dist. 3; Brown of Dist. 19; Downing of Dist. 22; McLaughlin of Dist. 13; Ferdinando of Dist. 16—To Select Committee on HB 727)

SB 2, specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public. (Jacobson of Dist. 7; Ferdinando of Dist. 16—To Executive Departments, Municipal and County Government)

SB 3, increasing the authorization for boiler replacement at the veterans' home. (Brown of Dist. 19; Sanborn of Dist. 17; Lamontagne of Dist. 1; S. Smith of Dist. 3—To Committee on Capital Budget)

SB 4, to make a supplemental appropriation for the veterans' home. (Brown of Dist. 19; Sanborn of Dist. 17; S. Smith of Dist. 3—To Finance)

SB 5, to make mental illness coverage under health and accident insurance optional for insured groups and subscribers. (Ferdinando of Dist. 16; Brown of Dist. 19; Poulsen of Dist. 2; McLaughlin of Dist. 13; Bergeron of Dist. 6—To Select Committee on HB 727)

SB 6, implementing the staggered registration system for private passenger vehicles. (Trowbridge of Dist. 11—To Transportation)

Sen. S. Smith offered the following Resolution:

Resolved, that the rules of the Senate of the 1975 Session of the General Court be adopted as the rules of the Senate for the 1975 Special Session, and that they be subject to amendment by simple majority through March 16, 1976.

Sen. BOSSIE: Under the Special Session Rules that you proposed, may subject matters that have been voted up or down at the regular session be considered at this time? Under the regular Rules, if a bill was acted upon and it was either defeated or passed, then a similar bill could not be introduced in the same session. So that if one had a bill prohibiting motor boats on a certain pond, and it was defeated, may they bring it up at this session?

Sen. S. SMITH: As I recall the rules, on a bill which was passed there is no problem. If a bill has been indefinitely postponed, I do not believe that it could be brought forth again until the 1977 Session.

Sen. LAMONTAGNE: I just heard you say that this will be continuing until March 16. Does this mean now that we are going to be in recess until March 16?

Sen. S. SMITH: I think that the plan would be to be in recess until possibly March 16, at which time we would come back and act on any other pieces of legislation which would come before us at this time. My hope is that we will not have a full-fledged Special Session in March. I hope that we can come back and in two or three days handle any business which comes up in this hearing so that we don't go into a full-blown Special Session. It would seem to me, however, that we may have to come back relative to the bill which we are most concerned with today, to give the committees of both the House and the Senate time to really review the legislation which was passed during the regular session.

Sen. LAMONTAGNE: I understand that we have used up 67 days of the 90 days, and we are now after the July 1 deadline as far as legislators receiving mileage. How is that going to be worked out?

Sen. S. SMITH: We are not now in the regular session, or a recess of the regular session; we are presently in a Special Session, so that mileage would be due to each member of the House and the Senate. This would continue for the potential 15 days of a Special Session.

Sen. LAMONTAGNE: How is mileage going to be paid if we are called back by the Chair?

Sen. S. SMITH: We are not being called back to the regular session. We would be recessing the Special Session until the middle of March.

Sen. LAMONTAGNE: So March 16 would be a continuation of the Special Session?

Sen. S. SMITH: Yes.

Sen. PROVOST: Was any bill passed by the House and sent to the Senate and the Senate sent it to a study committee, SB 6?

Sen. S. SMITH: I do not know what the status of SB 6 is, and I would defer to Sen. Trowbridge.

Sen. TROWBRIDGE: We did pass in the last session the staggered registration bill. Only last week Fred Clarke got hold of me as the sponsor of that bill and said there are three or four technical amendments that have to be made before this goes into effect in April. Hence I had the bill drafted, spoke to the President today, and said would it not be appropriate to bring in this technical amendment today, and I will explain it later.

Sen. BERGERON: We recessed from the regular session. We are now in Special Session. We are taking here of coming back in a Special Session. What is the status of the regular session?

Chair: In a few moments I will try to answer all those questions.

Sen. DOWNING: I rise in support of the pending motion to adopt the rules of the

1975 session. I think at this point it just provides for an orderly way to conduct our business, and anybody who wants to change the rules will have through the next legislative day that we would meet at least to offer amendments, which will probably come some time in March. It is important now to have some sort of rules to function by on the bills we have before us.

Sen. MONIER: Would you clarify your response to Sen. Bossie?

Sen. S. SMITH: I would like to correct it. My response was in error. Due to the fact that we are having a Special Session, the Rules of that Special Session would apply. If it were a continuation of the regular session, you cannot bring in something which has been indefinitely postponed within that two-year period, but due to the fact that it is a Special Session, if something was indefinitely postponed, it is my understanding now that you could bring a bill in before the Rules Committee.

Sen. MONIER: I asked that question because if my recollection is correct, in every Special Session prior to this, the Rules of the regular session of that year were not carried forth in the Special Session. In short, any bill that was acted upon can be acted upon again in the Special Session, of course if it has been passed I assume it would not be. But as a matter of record, if we vote the Rules the way that you have made the motion this morning, then we are now in Special Session, any bill that was acted upon or not acted upon or any other matter can be brought to this floor during that Special Session, and any rules about the fact that it was passed or not passed or in interim study or indefinitely postponed in the regular session does not apply?

Sen. S. SMITH: That is correct.

Sen. MONIER: I do not know what the proper way to do this is, but I would like to see that amended because I think that opens a Pandora's Box for fifteen days of Special Session, which I am dead set against. So if somebody wants to, I would be glad to ask for a recess and we will amend it.

Sen. S. SMITH: In reply, the opportunity to amend the 1975 Rules will take place on March 16. We are recessed, I hope, until that date so that there is no problem about amending the Rules at that time, if the Senate so desires. I think to attempt to do it today would be a difficult situation, particularly in lieu of the fact that the Joint Rules Committee has not met to determine the exact dates of final passage of bills from each house.

Sen. PRESTON: I think it is important that if you can answer all the questions that have been asked, to those of us who are not too familiar with what is going to transpire on March 16, that it is very significant to me before I vote on this issue.

Chair: The Chair will state that the adoption of the Resolution of Senator Smith will have no particular bearing upon the length of days in which we are in session. This is only, as the distinguished Minority Leader said, so that we have Rules to work by. As soon as this motion is adopted, I will then come to the floor and explain everything that will take place.

Sen. PRESTON: Don't you think that if we vote on this motion that everything might take place that has been discussed by a few that most of us aren't aware of and that we would be acting really before we know what we are acting upon?

Sen. Downing moved the question be tabled.

Adopted.

Sen. S. Smith in the Chair.

Sen. JACOBSON: As all of you know, the Governor had originally wanted to have the regular session of the Legislature to come and convene and deal with HB 727 and its ramifications. The Senate leadership were willing to come on that basis to do that more than three weeks ago. However, he could not achieve agreement with the House on this question, so then the Governor and Council sent for an advisory opinion regarding whether he could call us back in the regular session or whether he must call us back into special session. The court returned the advisory opinion saying that he could call us back, but that if he called us back it would be in a special session. Now, whenever there is a special session, its length can be fifteen days, or less, equally, as in a regular session it can be 90 days or less, and the number of days that the General Court may want to take may be any number in between one and fifteen, depending upon the legislation. Given that condition of the advisory opinion of the Supreme Court, the legislative leadership of the Senate met last Friday to discuss what was to be done. May I say first of all that I do not agree with the Supreme Court opinion. I believe that they ignored Constitutional history. They did not take into account the fact that the word "special session" appears in a change in 1889 that has nothing to do with Article II, Part 50, and

that they did not take sufficient account of Article II, Section 19 or 36, but that is not a question at the moment. We are under the guidelines of the advisory opinion of the Supreme Court that this is a Special Session. So the question then was what should we do in a Special Session. The Senate leadership agreed to introduce five bills: SB 1 which is introduced to suspend the implementation of HB 727 for 120 days; SB 2 which relates to a change in the checklist which goes back to an opinion given by the Attorney General; SB 3 has to do with the boiler at the Veterans' Home; SB 4, which has to do with a change to the Operating Budget of the Veterans' Home; SB 5 which is introduced as a vehicle whereby the Select Committee to study the implications and ramifications of HB 727 will have the opportunity to have committee hearings, gather evidence, and then come up with an official recommendation. That bill will not come before us today. Then Senator Trowbridge asked this morning if he could introduce SB 6, which has to do with Fred Clark and the staggered registrations, and that that bill would be passed, so the intention is to take up for consideration SB 1, 2, 3, 4, and 6. That would be the work of the Senate today. Then we would adjourn, not recess, to March 16, when we would then take up the report on SB 5 from the Select Committee. Also at that time we would take up any other necessary required legislation. It was agreed by the Senate leadership last Friday that the Rules Committee would receive any requests from Senators through the end of February. They would then meet around the first of March and say yes or no. If you do not put in your requests before that period of time, then you will not get consideration. You may not get consideration because the bill can be postponed until the 1977 legislative session, so there has to be clear and sufficient reason for any other bills other than SB 5 to be taken up on March 16. That was the unanimous agreement of the six members of the leadership.

On the question of the Rules, it is simply to provide the orderly procedure that we normally have within this body. It means nothing more. As a matter of fact, some of the present Rules are disjointed. They would not be applicable because they are on different dates, so that the introduction of bills, the passage of bills as to the final date, are not applicable at the moment. It is those Rules that we would want to amend on March 16. This is the normal procedure that has been accepted in each of the three previous special sessions to which I have attended—the 1970, the 1972, and the 1974. I will be glad to answer questions.

Sen. BOSSIE: You referred to three previous special sessions that you have attended. If my memory serves me correctly, all those were open-ended and wide open and over one hundred bills were introduced at each one of those.

Sen. JACOBSON: That is correct. They went for fifteen days. There is a much more serious question at this time with regard to the budgetary question. We are in a present estimated surplus of \$400,000 over the biennium. Tomorrow morning, the postal rates go into effect for thirteen cents. The estimate is that will cost us \$180,000 in a biennium in additional cost to the state. We have the Prison situation over there with additional costs, so I think the conditions under which we are coming are different, and I have not heard any Senator say that they want a full-blown session. However, it was said at our meeting on Friday that if the House should move in the direction of allowing bills in, then the Senators ought to be entitled to the same privilege. I am presuming that the House will follow this restricted procedure as well, though I cannot account for the House.

Sen. TROWBRIDGE: During this period of time between today and March 16, would it not be appropriate for standing committees of the Senate to have a meeting at which they would discuss the subjects of their committee to find out and discern as a committee what possible emergency legislation was needed to be brought before the Rules Committee? Would that be an available procedure for the committee to meet, listen to its own members and others as to what is needed and thereby sort of screen the requests that might be made for action on March 16?

Sen. JACOBSON: The standing committees are entitled under the statutory legislation to meet. That would be their prerogative and that would be a possible way of discussing. I would, however, say that the Rules Committee, which has been the standard procedure, would then have the final say on whether it would come in or not.

Sen. BERGERON: What is the status of the regular session?

Sen. JACOBSON: I do not know whether we are gone or whether we are still in existence. As Sen. Lamontagne very clearly pointed out, we only spent 67 of the 90 days to which the Constitution entitled us, except for the restriction that we can no longer be paid because it is post July 1 of the odd year. The Court never answered the question, so as far as I am concerned, and I add that is one of the defects of the

advisory opinion as well, that that is a question in limbo. I understand that the Attorney General is going to proceed to again speak to the Court with regard to the question, so until he does something in that direction or if the Legislature itself, the Senate here, because it is now in session, could also ask the question if it wished.

Sen. FOLEY: Am I right in assuming, then, that the Governor and Council requested or ordered us to have a Special Session for one day, and then we are putting in as many bills as we care to?

Sen. JACOBSON: The Governor and Council cannot order us to have a one-day session. The Governor and Council can only call us in to special session. May I add that I have been in consultation with the Governor, and the Governor is in agreement with the position that the Senate leadership has taken.

Sen. FOLEY: Do you mean in the number of bills that are coming in?

Sen. JACOBSON: The Governor has no objection to any of the bills that have been entered in the Senate.

Sen. FOLEY: According to the three-page letter that we received from him, he felt that anything other than HB 727 was out of order at any time, and I am just wondering how he would feel about this?

Sen. JACOBSON: The Governor has modified his position on that. That was sent out largely directed towards problems in the House I presume. He has accepted the position that I have stated.

Sen. PRESTON: Is the Governor supporting the session continuing and meeting once again in March for further consideration of HB 727, or SB 5?

Sen. JACOBSON: Yes.

Sen. LAMONTAGNE: Did the Rules Committee meet in order to restrict some of these different bills that are being proposed? Was there any restriction at all from the Rules Committee?

Sen. JACOBSON: The Rules Committee has not met.

Sen. LAMONTAGNE: What was the meeting you had on the 26th?

Sen. JACOBSON: The Senate leadership which included myself, the Vice President of the Senate, the Majority Leader of the Senate, the Senate Whip, the Minority Leader, and the Deputy Whip.

Sen. LAMONTAGNE: You are on the Rules Committee. Could the Rules Committee restrict anyone from introducing bills?

Sen. JACOBSON: The Rules Committee can rule on the introduction of bills. However, the Senate itself can overrule the Rules Committee.

Sen. LAMONTAGNE: Does it take a two-thirds vote?

Sen. JACOBSON: It would not. It would take a majority vote.

Sen. FERDINANDO: My feeling as Chairman of the Rules Committee is that we are going on a very limited basis. We are talking of having only one bill. Certainly on the 15th or the 16th we are to be spending time here, and it is the wish of the members of the Senate because there is a lot of work that is going on around here, that we be in a position to consider bills. For instance, it is a fear that I have that if the House has a handful of bills that need to be acted on, for us to be spending our time up here doing nothing, I certainly would welcome somebody saying this is an important bill; we ought to consider it, keep ourselves busy from that end of it, so I think we should be flexible enough to consider it, keep ourselves busy from that end of it, so I think we should be flexible enough to be able to accommodate the situation that takes place on the 15th, whatever that is.

Sen. Downing moved Sen. S. Smith's resolution be taken from the table.

Adopted.

Sen. LAMONTAGNE: I am going to vote in favor, only for one reason and that is because we need to have Rules for this Special Session. As far as I am concerned, when the Rules Committee has not met and therefore has not placed any restrictions as to the type of legislation to come before us, I don't like that very well, although I am forced to vote for the Rules. Again, I feel that bills, yes, I can see it. I would be for it, but bills that are not emergency, then I don't see why we should be going into another session, because it can be a very, very long one. I have been asked to introduce some legislation, and I have refused because I didn't feel it was an emergency. I was asked if I would support the boiler bill. Yes, the boiler bill for the Soldier's Home is an emergency; it is needed. There is one thing I want to say and that is that the leadership of our Senate President should be complimented for turning around and being in favor of calling us

back. If we had been called back for that one day to come back on this HB 727, I think we would have saved ourselves a lot of troubles and we wouldn't be worrying about what is going to happen between now and March 16. As far as I am concerned, if anything comes up between March 16 that has no emergency, I am going to be against it. But I am voting against my wishes today on this amendment to March 16.

Sen. MONIER: I recognize everything that Senator Jacobson has said is true, and I would like to publicly thank him for informing me of this while I was in Florida. I have one problem that bothers me. I am going to vote against these Rules. I am going to do it, not so there is not a session, because I recognize that we have to have Rules for a session, but I say and I predict today that you are opening Pandora's Box and that before we are done, between now and July we will have served our 15 or 16 days, because I think it should be obvious to everyone here, and I don't particularly care whether the leadership thinks that I am criticizing them—I assure you it is not—I recognize that you do have to have Rules, but I am saying that the Rules that we are adopting, although they have been adopted three sessions before or back to 1800, it doesn't make any difference, that we have already agreed that we will submit five, now I understand six bills, which is fine, and I have no argument with any of these bills. I recognize that there is a distinct need to come back on HB 727 because I think there are some things that have to be done to it, and I think the Select Committee has proposed to the Senate not only a logical but a very reasonable way to approach that problem, and I buy it. But I hope you understand and recognize that if we adopt these Rules as they now stand and then wait until the 15th to amend them, that any time between now and the time we adjourn you could have anywhere up to every bill that has been introduced to the Legislature, except the Senate, because we have agreed not to do it, put into the House and you automatically have your Pandora's Box. I think this is something that has been well staged, well put forward, and that we are playing patshies to it. I don't intend to vote for it. Is there a way to amend this motion so that we adopt Rules, can proceed, but at the same time restrict what can be put in today? I don't care about the 15th. I thoroughly agree that you would have to come back on the 15th to deal with HB 727. I buy it; I think it is a sensible rational approach, and I commend those people that put it together. I don't think the same logic is occupying other people in the Legislature. Therefore I am absolutely convinced that we are going to see a whole slew of bills introduced in the other house, and then we are going to be left hanging that if we don't act upon them, then we are the ones that have not taken care of it. I have not heard one single word except Senator Jacobson honestly exclaim that he cannot control and know what the House is going to do. By passing this motion of the Rules as we now have them, we have put no restrictions whatsoever on bills except to say that if they do it, we now can do it.

How many of you have been up to Legislative Services? I received five bills of mine today for approval. Why have I got five or eight bills in? The reason is because about a month ago I found out that there are over a hundred bills being drafted for special session "in case" there was a long session or there was a special session. We are now in a special session. I agree with Senator Jacobson that the Court ruling was probably incorrect. Once again I don't agree that we are bound by it. That is beside the point. That is for the Attorney General to argue about. The thing that I am arguing about right now is that there is a slew of bills in Legislative Services. The Senators are going to wind up putting bills in to protect their own interests because it is going to be opened up; they are not going to be by emergency. I applaud Senator Lamontagne; he is going to be against them because they are not an emergency, but that is not going to change the fact that they are going to be in. If we are not here to deal with them at the convenience of the House for as long as they take to put those bills through, then we are the ones that are going to be holding the bag. I suggest very strongly that somebody, the leadership that have spent the time to put this together, think of some way to amend this motion of Rules right now so that we are restricting it to the ones that we want. I know what the answer is going to be—we can't control the House—fine, the House can't control the Senate, either. I am going to vote against these Rules for the purposes stated and no other.

Sen. DOWNING: It is my understanding that by adopting the Rules and passing the motion that is before us now, that any new bills are going to have to be referred to the Rules Committee, and they are going to have to pass the Rules Committee. I think that is all the protection you need. If you want to suspend these Rules, it takes a two-thirds vote. I don't think you can ask for any more protection than that. Nothing is just going to happen automatically because the House wants to do it. That is why we have to have some Rules. I think the protection is there. I urge you to adopt the pending motion.

Sen. MONIER: You are speaking about the Rules Committee, the Joint Rules Committee or the Senate Rules Committee?

Sen. DOWNING: The Senate Rules Committee.

Sen. MONIER: The Senate Rules Committee passing on what bills, those that are introduced by the Senate or those that are introduced by the House?

Sen. DOWNING: Any bills that come into the Senate that are in conflict with the Senate's rules.

Sen. MONIER: I have no objection to what the Senate may bring in. How does the Senate Rules Committee pass upon the bills that the Senate may hear have anything to do with what may go into the House?

Sen. DOWNING: Any bill which is introduced into this body, whether it is a House-sponsored bill or a Senate-sponsored bill, is subject to the Rules of the Senate.

Sen. MONIER: You mean to the Rules Committee of the Senate?

Sen. DOWNING: Yes, which is a product of the Rules of the Senate.

Sen. MONIER: Maybe you are clarifying something for me then. What you are saying is that if the House was to introduce today a whole group of bills or anytime between now and the 15th, then the Senate Rules Committee would have a right to reject those bills for the General Court?

Sen. DOWNING: Yes, that is my opinion. We have cutoff dates in the Senate Rules which say that certain bills cannot come in beyond a certain date, and if a bill comes in, then it has to go through the procedures allowed for it.

Sen. MONIER: I recognize that the Rules Committee passed on bills that may be heard in the Senate. I don't know of anything in the Rules that if the House adopts or brings in those bills today, that our Senate Rules Committee may pass upon those and therefore they cannot be acted upon by either house. If they do bring them in they may act upon them; we do not have to accept them, but as I said, we are left holding the bag.

Sen. TROWBRIDGE: I think we are getting confused between two things. With all due deference to what has been said, the way I see this thing happening is that the Senate Rules that we would adopt today are clearly under our own control, as Senator Downing said. The majority of the Senate can decide to take in a Senate bill or not, with or without the Rules Committee with their recommendation. I don't think the problem here, as Senator Monier says, is the Senate introduction of bills. The problem that we are referring to is the slew of bills coming in from the House. That is going to be decided by the Joint Rules of the Special Session, not by the House Rules or the Senate Rules. I think it is on that area that we should concentrate our efforts that if we are going to say in the Joint Rules that only so many bills are going to be acted on, say twenty-five or ten or five or six, I don't care what it is, that is where the argument is going to be drawn, not in the Senate Rules and not in the House Rules. We are not discussing that on this motion at this time; we are not discussing the Joint Rules.

Sen. DOWNING: In the absence of Joint Rules—we have been known to operate for months without them—wouldn't the Rules of the Senate prevail relative to all business transacted?

Sen. TROWBRIDGE: In the Senate, yes. But if a message comes from the House that HB 1 is messaged in, at that point that is under the Joint Rules. It is the messaging between the two houses that comes under the Joint Rules. Once it is messaged in, it then comes under the Rules of the Senate.

Sen. DOWNING: The concern here is what is going to happen to House bills coming into the Senate. In the absence of Joint Rules—and there is no indication that we are going to have any before we finish today, certainly—then a House message coming in, a bill coming from the House is then referred to the appropriate Senate Committee, and this can be done according to the Senate Rules. Couldn't that go to the Rules Committee or whatever other committee the Chair decides to refer the bill to?

Sen. TROWBRIDGE: As I understand the and you will remember in the last session the House got persnickety about the absence of Joint Rules, and they refused to take Senate Messages. So we will have to adopt Joint Rules. There is no way for a House Bill to be messaged into the Senate without some Joint Rules, as far as I know. In my experience here, that is the mechanism by which the bill goes from one house to another.

Sen. MONIER: Haven't you just literally supported exactly what I was saying?

Sen. TROWBRIDGE: You were saying you were not going to vote for the present motion to adopt Senate Rules. I think I was trying to point out that that is not the issue that you are bringing up. The Senate Rules have nothing to do with the problem that you are talking about. It is the Joint Rules of the Special Session that you should be focusing on, in my opinion, from what I am gathering from your remarks.

Sen. MONIER: You are right. I am arguing this on the Senate Rules to make the issue. I fully recognize this, and I have no qualms about what the Senate leadership has done with our bills or what our concerns are going to be or our Senate Rules Committee accepting anything except emergency legislation. If they did then we could fight about it here on the floor at that time. That, however, does not preclude exactly what I said, the opening of a Pandora's Box, because I assume that the House is going to adopt their Rules, and if their Rules do not have the agreements that we have here, with the Governor, with the leadership, and which I fully support, then 100 bills can be there, or 200, or 50, and once they are there, then some action by us has to be taken at some later date over a period of time or we are left holding the bag for those bills.

Sen. TROWBRIDGE: The only difficulty with that is that until you get a Joint Rule by which the House can message those bills into the Senate, there is no mechanism for them to come to the Senate.

Sen. LAMONTAGNE: Pending before us is adoption of the Rules of the Session of 1975. Why is it necessary to turn around and open the door for amendments of the Rules up to March 16?

Sen. DOWNING: There are some changes in the Rules which should be made, in fact we are going to continue the session. There are date cutoffs and things like that that you may want to change. Every Senator has an opportunity to deal with the Rules and offer suggestions to the body under the pending motion, if they feel they are necessary or desirable. That is all it does. Rather than just take a suggestion from the leadership, it is put before the whole Senate so that every Senator can participate in what they want to do and how they want to function here. That is all that does. It leaves it open for changes.

Sen. LAMONTAGNE: How would you feel if a motion was made to amend the motion so that we would only adopt the 1975 Rules and leave the additional out of it?

Sen. DOWNING: I like the motion that has been presented to the body now.

Sen. Monier recorded in opposition to the motion being "subject to amendment by simple majority."

Sen. Lamontagne moved the Rules of the '75 Session be adopted without amendment.

Sen. JACOBSON: I rise in opposition to that motion because the effect of that is that we could not then make changes in the dates that would be required except by a two-thirds vote. I would like to go on to say that this is a normal procedure and that there is no problem with adopting the Senate Rules so that we can function. We cannot control what the House is going to do, no matter what we do. The House has its own prerogatives, its own rights, and they have to make those decisions. We cannot do anything with our rules to change the prerogatives that the House has with respect to its internal affairs. They can introduce 5,000 bills today if they so desire, and we could do absolutely nothing. Now the Senate leadership has tried to be responsive and responsible. All we are doing here is adopt the rules so that we may proceed in an orderly fashion with regard to the internal affairs of the Senate. As Senator Trowbridge just said, we can stop any House bill coming in for lack of Joint Rules, and we can say that before we accept any House bills, we must have Joint Rules. The House can do the same. What we have done in the past, when there has not been serious controversy as there is not on any of these bills, as far as I know, is that we have accepted House Messages, and they have accepted Senate Messages, simply as an orderly procedure. Now, if we want to create chaos, then we can do that, but I suggest that we proceed in an orderly fashion, adopt the rules according to the motion of Senator Stephen Smith and that we come back on the sixteenth, and then we will take up any amendments. You can vote them down or up. I think we are actually wasting our time arguing about something that is not at issue. I hope we can do our business and be done with it.

Motion lost.

Resolution adopted.

Senators Brown and Downing moved the following Resolution.

Resolved, That the House of Representatives be informed that under authority of the Call of a Special Session by the Governor and Council, the Senate has assembled and is now ready to proceed with the business of the 1975 Special Session.

Resolution adopted.

SUSPENSION OF RULES

Sen. Jacobson moved that the Rules of the Senate be suspended so far as to allow SB 1, 2, 3, 4, and 6 to be considered at the present time. Adopted.

SB 1, delaying the effective date of health and accident insurance coverage for mental illness for six months. Ought to pass. Sen. McLaughlin for the Select Committee on HB 727.

Sen. BERGERON: We served on the Select Senate Committee and came up with the recommendation, most of which is encompassed in SB 5, that we eliminate the mandatory portion of the bill as far as the consumer, the insurance buying public, is concerned, but having the coverage available in the event that they wanted it, with the study committee going to work on the various options that would change this. I liked it that way for the simple reason that I was not committed to coming back here March 16 to act on the bill. The way it came out is that not only are we here today acting on the bill, but now we have to come back March 16. I wonder why it came out that way?

Sen. McLAUGHLIN: March 16 has only been discussed here this morning on the floor, but it has nothing to do with this bill. That is the date that we will come back in here to receive any bills that the Rules Committee may submit to us. Nothing has been stated here that I have heard to the effect that we have to work on this bill on March 16. This bill is just delaying the effective date of HB 727 until July 1, rather than trying to put amendments on it as we suggested, such as cutting out mandatory coverage or eliminating any parts of it, whatsoever. I believe SB 5, which is the vehicle which we hope to use to take to study committee in order to put a bill together which we in the Senate feel will be a workable bill in place of HB 727, and bring it in at some given time. What we are looking for here is a six-month time period to put this bill together in its proper perspective.

Sen. PRESTON: If we vote for SB 1, in effect we are delaying the implementation of this until July 1, 1976—For those of us who might have supported HB 727, it would, if no other action is taken, go into effect on July 1?

Sen. McLAUGHLIN: That is correct.

Sen. LAMONTAGNE: Does this also mean that, for instance now some of the people have already paid premiums, and there is coverage, does that mean that insurance payments are delayed from January 1 to July 1?

Sen. McLAUGHLIN: Depending upon what they are paying for. If they have a present policy in effect now that has mental health as part of the policy, this will continue on the way it is. This is saying that the mandatory part that has to be put onto policies that do not have it at this time—I don't think that any of them have paid their additional premium on that—if they have, then they would have to get a rebate.

Sen. LAMONTAGNE: In other words, there would be no payments due from January 1 to July 1, 1976?

Sen. McLAUGHLIN: If the policy that they have at the present time does not have mental health coverage on it, the answer is yes. If they have a policy now, which some do have, with mental health coverage on it that they have bought previously, they will continue to keep that policy in effect and pay their premiums.

Sen. TROWBRIDGE: The language in SB 1 has a very strange part, 349:4, "This act shall take effect July 1, 1976." That would be the act that established HB 727. Then it says under effective date of this bill, SB 1, "This act shall take effect upon its passage if passage occurs prior to January 1, 1976. If this act is not passed prior to January 1, 1976, this act shall be void." Does that mean that if the Governor doesn't sign SB 1 before January 1, that the entire HB 727 is void? When it talks about "this act", that act is referring back to the 1975 Act. That is the word "act." "This act shall take effect July 1." That is as if it had been passed in the regular session saying July 1. Now the effective date of this bill is saying this act shall take effect. That is the first time in my legislative career that I have seen anything like that, and I wonder why that language is there.

Sen. McLAUGHLIN: The sponsor of the bill did not put that language in there, I am sure. We went to Legislative Services and told them what we had in mind, and this is what came back.

Sen. TROWBRIDGE: Why can't we just say that this act will take effect upon its passage? The other way, I can perfectly well see that those of us who supported the

mental health bill, and who are supporting the action of delaying it to July 1, would like to make sure that somehow this bill, SB 1, does not go into effect January 2, thereby repealing HB 727 in its entirety. If that is going to happen, I am not going to be a party to it.

Sen. JACOBSON: The first section deals with Chapter 349:4, and the words, "this act" is in reference to that chapter. Now the second part is the effective date, and the phrase, "this act" is in reference to SB 1.

Sen. TROWBRIDGE: I think that it is fine that legislative history is being taken down here, but I don't see why they had to put on the last sentence of section 2 at all. There is no need for that second sentence under any circumstance that I can see. I would like to see that sentence taken out, so that if mechanically someone cannot sign it before January 1, which is a holiday, why should it be void? We still want to make it effective July 1, 1976. We all agree with that to give the delay. There is no functional reason that I can think of on that last sentence of section 2.

Sen. JACOBSON: Mr. Jennings, the Acting Director of Legislative Services, talked to me about this, and he said that this is the way it had to be done. If there is some other way, I am perfectly willing because I am in sympathy with what you are saying that you do not want it to be construed that Chapter 349 is void. It was my understanding that if we did not pass it prior to January 1, then it goes into effect and creates a wholly different circumstance.

Sen. TROWBRIDGE: Surely it would go into effect, but say on January 3 this act became effective, SB 1, then at that point its effective date would have been moved over to July 1, 1976. I would just as soon see this thing say this act shall take effect upon its passage, and if everybody is as concerned about this as they said they have been, I think they will hustle this along so that its passage takes place before January 1.

Sen. JACOBSON: I have just asked for Mr. Jennings to come down.

Sen. Jacobson moved that SB 1 be laid on the table.

Adopted.

SB 2, specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public. Ought to pass. Sen. Jacobson for the Committee on Executive Departments, Municipal and County Government.

Sen. JACOBSON: I introduced SB 2 so as to provide a clarification that is in conformity with the Attorney General's ruling with respect to addresses on checklists. Originally the Secretary of State sent out a ruling to the supervisors of the checklists that the names and addresses must be on the checklist. This, of course, would make the average checklist of the town about 20 sheets long, and would create all kinds of problems on voting days when you have to take care of the checklist. You would have to have three or four times the number of ballot clerks in order to handle it. The intention of the original bill, sponsored by Senator Monier, SB 189, was to provide public information of addresses and names. What this bill does is provides that the supervisors of the checklist have in a public place the names and addresses of all persons on the checklist. For cities, it is in the city clerks', for towns it is in the town clerks' or in the selectmen's office. All this does is to provide the clear intention of SB 2, but also to bring the checklists into manageable proportion on the day of voting, particularly.

Sen. ROCK: You made reference to the fact that the checklist would become twenty times longer. I am not familiar with all the towns, but with those in the Twelfth Senatorial District, most of them are on one sheet of paper, and a good portion of that sheet of paper is blank. It would seem to me that the information as to the residence address of the voter would be more meaningful if it were on the checklist rather than some distant place a person would have to go to verify the address. I wonder if you could clarify for me what you mean by saying the checklist would be twenty times longer if you add one extra part, be it an additional line or a comma and a few extra words listing the address of the person within the town?

Sen. JACOBSON: Naturally I spoke in a hyperbole, and I didn't realize that you had such small towns, but I would presume that the Town of Milford is more than one page long, because the Town of New London is more than one page long. These are very large sheets, and if you added the addresses—and in many instances you would have to have the address twice, with husband and wife. Now the Attorney General's Office has already ruled that they do not need to be on the checklist. Therefore, what this bill does is require that the public information be available, nonetheless. So it was introduced in

order to make sure that the public information—which was the intention of the original bill—be maintained. So the question of the absolute requirement of these addresses has already been modified by the Attorney General's ruling.

Sen. MONIER: I rise in support of SB 2 because myself and Senator Saggiotes were the sponsors of SB 189, which has become the chapter. I never did understand why the Attorney General had to make a ruling in the first place, because the original bill never said that they ought to be on the checklist. The Secretary of State was authorized by SB 189 to have what data was collected. However, it is very clear in SB 189 that this data was to be collected for the supervisor of the checklists' files only. Therefore, if the Secretary of State did request that, I don't think he had the authority to do so, and I am sure the Attorney General ruled the same way. However, if SB 2 will clarify it by statute, it is perfectly all right with me. I have no objection to it. It doesn't change anything. I think it is a very necessary bill, the original was, and I think SB 2 is, too, so that there is data open to the public where all of us can check to see why, how or for what reason someone's name is on the checklist. That is the original intent of the bill.

Sen. LAMONTAGNE: I rise in support of SB 2 because in the City of Berlin we face a serious problem. In fact, we are the only one in the whole state of New Hampshire where we have to have sent to the printer five days—as you know the state law is ten days—but the City of Berlin, under a special act, had five days. Therefore five days is not enough time to have the checklist reproduced by the printer. Therefore I happen to have been one who appeared before the Secretary of State, and at that time the Secretary of State had told me that it was not necessary to have the names and addresses on the checklist, but it was necessary to have a file on the individual voter, that is the man and wife, to be filed with the supervisors and therefore they keep a list with addresses, but not to have it on the sheets that have to be reprinted and posted because the printer does not have time enough to do it.

Sen. PROVOST: What happens if there are two persons with the same name in the same ward?

Sen. LAMONTAGNE: It is up to the supervisors to look up in the files that they have in that ward, and I am sure that the supervisors are very well known to these people, and therefore if there are two persons, all right, but if there is only one, then it means a correction.

Sen. Bossie offered an amendment to SB 2.

Sen. BOSSIE: With regard to the original bill, I do support that as well. As we know, in a number of towns and cities presently there does exist the addresses of the individuals who vote. Particularly in the City of Manchester, we found that there is really no problem; it fits on the checklist well, and we have it computerized now, so it is very easy to do. Apparently originally when it was passed the candidates wanted the addresses on the checklists more than anyone else. It would appear that the address on the checklist in fact does assist the people who do the checking off, in case there are numbers of people with the same name, which is very frequent. This amendment keeps SB 2 intact and it adds two other things, one of which is on the first page, Articles in the Town Warrants. I don't represent a town in my district, but I do know it is a particular problem for those of you that do represent towns. Apparently the problem has been that a number of people, and there are certain times when articles that appear in the town warrant have to be presented to the selectmen. Apparently on this last day is when everybody gets wind of it or not, and they rush until midnight to get the proper names to put something on the town warrant. It would appear that the purpose originally was to have a meeting or a notice to all individuals in a town saying that if you want to put an article on the town warrant, then you should submit it to the selectmen on a certain day. Basically, this is to assist the towns in avoiding lawsuits because right now if they have a meeting and it ends at 9:00 and on the way out the door someone says, here, I have an article for the town warrant. So this is just to make it uniform. If the selectmen have a meeting, at the end of that meeting is the end of the time when articles for the warrant will be accepted. I don't represent the towns. If anyone has a problem with that, let me know, but it would appear to be okay.

With regard to section 3, page 2, this was referred to me by the Registrar of Voters of the City of Manchester. One of the problems of the present law is that under RSA 55:8 it makes reference not only to the times and dates when checklists must be prepared, but what it does is provides as follows. "No additions or corrections shall be made after midnight Saturday ten days prior to election day." So what has happened, particularly

in the City of Nashua, is that the supervisor of the checklist or registrar of voters in Nashua apparently saw this and said, we have to keep the registration office open until midnight of that date, or we are going to get sued. Apparently they had some pressure from various candidates or someone, but they kept it open, I understand, until midnight. In a number of towns and the City of Manchester our office is open every day from 9:00 to 5:00. This is certainly an adequate time for individuals who want to vote to come down and register. Basically, all that section does is strikes off midnight and puts in the words on page 3, "before the close of the normal session hours held by the supervisors on the succeeding . . ." Basically it holds the regular hours, so in your town if you have the supervisors of the checklist there from 7:00 to 9:00, at 9:00 that is the end of it, and your towns and cities will not have to stay open until midnight. I have asked the Secretary of State about this, and he inquired of the Attorney General. If you have the Political Calendar you will note that it is in capital letters, midnight, of these days in which to correct the checklist. This is just inaccurate because this wasn't our intent because we passed it in 1973. This will correct it and will make reasonable hours, and there is no harassment and no law suits.

Sen. MONIER: You say there is no difference in this except for eliminating the midnight. May I ask you when the supervisor of the checklist or registrar of voters, is it not now they must close their hearing so that no one may register at least ten days prior to the election?

Sen. BOSSIE: I am not so certain about what you say, as what I propose in this does not change whatever the law is now.

Sen. MONIER: If you say that it does not change it, then it must be that currently the supervisor of the checklist may register voters up to two days before the day of election because it states here in the first sentence, "In cities and towns, they shall be in session for the correction of the checklist, at some suitable place in the city or town, two days at least before the day of the election."

Sen. BOSSIE: "The last of which shall be the Saturday ten days prior to election." You have to read it all at once.

Sen. MONIER: But if you say "two days at least before the day of election, and then say "which shall be the Saturday ten days prior to election" it doesn't make any sense. Would you mind explaining it to me?

Sen. BOSSIE: Basically it provides for two days, the last of which shall be Saturday, ten days before the election. It has always been that way. I would like to add that I know we are here for emergency bills. This bill takes effect on passage with my amendment. Originally it was sixty days after passage. This will apply to the primary coming up, and to any municipal elections, and we should have it effective immediately. My amendment will change that from sixty days and will make it immediately.

Sen. SANBORN: Under section 2, do I gather from this you are changing from 32 days prior to the annual town meeting to 35 days?

Sen. BOSSIE: No. If you will read the law as it is, the law is such that it ends with the provisions of RSA 32. That is just an extra sentence that we are adding. The only thing that is added is what is in parenthesis, "No written application under this section shall be accepted by the selectmen after the close of normal session hours conducted by the selectmen for the receipt of such applications." That is the only addition. The days are all the same.

Sen. POULSEN: I rise reluctantly in opposition to the amendment, not that I have any question as to the Senator's intentions, but this whole subject is so tender. For instance, during the last session, the Executive Departments had hours of hearings on this same type of thing so that I cannot see any reason why in any justice we could pass something on the spur of the moment without hearings and discussion or consultation to see what the effect of this amendment would be on different towns. I strongly urge you to vote against the amendment.

Sen. BOSSIE: With what you make reference to, I would like to ask how this could affect anybody? All you are doing is making it uniform when you could accept these articles for your town warrant. It doesn't affect me; it affects your towns. How can you not but prevent lawsuits and problems with your constituents?

Sen. POULSEN: I don't know how it can; likewise, I don't know how it can't. I would just like to study it before I agree to it.

Sen. TROWBRIDGE: Representing no cities, all towns, I think I can point out a situation where this might backfire. I know that in one of my towns there has been a war going on between two factions. I can imagine very well the selectmen might close their normal course of business rather early in order not to receive a warrant article from a

certain group who still think that they have until midnight to bring it in. I agree with Senator Poulsen that the possibilities of dodging and weaving in the small towns are unbelievably great, and I think we ought to hold off on this one at this time.

Sen. BOSSIE: If as now is required by law that the selectmen must post a notice that they will be available at the town offices for the purposes of receiving articles for the warrant—this is the way the law is now—how can any problem exist, if the hours are there and your people can read them? How can you have a problem with that?

Sen. TROWBRIDGE: I will tell you exactly how. I have seen it happen. In Manchester maybe there are a lot of posting places, but most of the posting in, say, Dublin or Harrisville, is done behind two old waybills that are on a door that you rarely go by. If the selectmen were to say they are going to be open from 12 noon to 12:15, no one would know; no one would have read that notice. It would go right by. You talk about the possibilities of lawsuits, I can assure you that this would make unending possibilities of that. The people just don't get notified. They go on the basis that the selectmen are there at night. That is when they go. That is when the selectmen normally meet. If the selectmen are trying to close off an article in the warrant that they see coming, they put up the little post saying they are going to be there from 12:01 to 12:02 on Saturday; they meet, they close, it's done. That is the kind of thing that can happen when you get some internecine warfare in a town. I do believe that it is possible that this would create more problems than it solves.

Sen. Jacobson in the Chair.

Sen. Bossie moved that the question on his amendment be divided.

Sen. BOSSIE: I would ask first that the Senate vote on the amendment to RSA 39:3 with regard to the articles in the warrant. I still ask you to vote for it. I don't represent the towns, but it is about time that the towns do conform with the cities and everyone else and make it uniform. I don't think there is any problem. I realize that a lot of towns have part time people, and they probably have a little more difficulty, but in order to avoid some of the greater problems that will arise, I think they should do it. With this in mind I ask you to vote on 39:3 first, and I don't believe there is any problem with the revision to 55:8.

Division requested. 16 yeas, 6 nays. Motion prevailed.

Sen. Bossie moved adoption of Part 2 of the amendment. Motion lost.

Sen. Bossie moved adoption of Parts 3 and 4 of the amendment and that these sections be renumbered to read "2" and "3".

Sen. BOSSIE: Basically under the present statutes, 55:8, it makes reference to midnight of these various days that these supervisors have to be open. The only thing this bill does is to take out what we intend, to take out the word, "midnight", so that it will be the close of regular hours. So if in your town you have some supervisors of the checklist who might not like other people who might want to vote, they could close early or they could set separate hours. I don't know how they would do it, but normally if they have regular hours—like most towns I know they have 7:00 to 0:00, the only Monday of the month, etc. and most of our larger cities we have every day—so the only thing this does is to change it from midnight. This was requested by the registrar of voters, and I am sure it would help the Secretary of State. The Attorney General has refused to give an opinion on it because they are the ones that put out the Political Calendar. In turn, the Secretary of State will not give me an answer in writing because there is no legislative history on it, so this would make it clear that it is regular, reasonable hours.

Sen. TROWBRIDGE: I appreciate that, and I think I can go along with that quite well, because the people close up whether it is midnight or not, they go home. In answer to Senator Monier's question, when it says two days, what he is referring to is that they shall have two sessions, really, the last one of which is ten days before the election, two sessions rather than two days.

Sen. BOSSIE: That is correct. The law the way it is intended to continue with regard to the number of days or sessions. The only thing this will change is the midnight.

Sen. PRESTON: This in no way would preclude people or give them an excuse just to operate during day time hours and perhaps exclude working people from night-time meetings?

Sen. BOSSIE: That certainly is not my intention.

Sen. PRESTON: Is it not true that this might be construed by those who desire to keep this during ordinary office hours?

Sen. BOSSIE: I have never heard of a registrar of voters or supervisors of the checklist holding their meetings until midnight. The only instance I recall is in Nashua where some voters were pretty upset, and they did. I think regular, reasonable hours, and if it is the towns, probably at night would be the time. In Manchester we have every day, plus on Thursday night until 7:00. This is certainly not intended to keep anyone from registering.

Sen. S. SMITH: Was this amendment which you are offering here promulgated by supervisors' association or moderators' association? What was the impetus behind this piece of legislation?

Sen. BOSSIE: The impetus was in a town that I am familiar with and also the City of Manchester. The registrar of voters and the supervisors, there are three of them, asked me if this ever comes up or could I have a bill to change it so that it would be very clear that they don't have to stay open until midnight. If I were to give them advice, I would say that they don't, anyway. But to make sure it is clear I would do this. The midnight idea is for the day; it is not for the purpose of the actual registering at that hour.

Sen. BROWN: Supervisors of the checklist, in my town, as an example, meet and advertise the fact that they meet at a given time between the hours of 7:00 and 9:00 in the evening. Would this jeopardize that in any way?

Sen. BOSSIE: No. This would preclude some voter from your district suing the supervisors of the checklist saying they didn't comply with state law because they didn't stay open until midnight. This is to preclude that, and they can certainly hold their hours the same as they do now.

Sen. MONIER: I have no objections to this, really, except for the same questions Sen. Trowbridge named on the other. There is a Special Election Committee that has met, I think, several times. The Executive Department held hearings on at least five or six bills with matters concerning this, during the regular session. I just question why something like this which is written in this kind of language—I don't question your integrity at all that this does nothing except set it up for normal hours—I don't mean this, but I do know that, for example, supervisors of the checklists in more than one town in my district are open at night only. I don't want to argue about whether it is midnight or something, but I do know that they work and therefore they are only open at night. I just ask, is this an emergency, is it something that we should do without holding and going through the Special Election Laws Committee that we set up in the Senate? I just think it is something that I just don't want to vote for simply because it is something I am not clear on. I want to make sure what any other ramifications might be. I want to get some word back from my constituents, from supervisors of the checklist. I am sorry. I am not against what you are trying to do because I think I understand it, but we had sessions, there are Special Election Law sessions that are meeting, there is one coming up on January 5, and I see no reason why this cannot be brought before them. I don't think this is an emergency type situation at all. I question this because if we keep doing this, we are going to extend ourselves.

Sen. POULSEN: I object on primarily the same reasons as Senator Monier. In every bill that we have had to do with checklists and checklist supervisors, we have had a lot of input; they are very interested. They are volunteer workers, good citizens, and I don't think we have the right to pass anything, good or bad, without their knowing and being part of it. I think we are completely wrong to do it quickly in this fashion.

Sen. BOSSIE: In all honesty, do you want the supervisors of the checklist in Littleton, New Hampshire, to have to stay open until midnight?

Sen. POULSEN: I wouldn't care if they stayed open twenty-four hours a day. I would like them to tell me what they would like, rather than me tell them.

Sen. LAMONTAGNE: I feel that this is not an emergency. In fact, I have a similar problem in the City of Berlin. I told the Senate here that the City Charter says that five days they have to prepare the checklist. Five days is not even enough for the town clerk to go to the printer and have it printed. Therefore, I have a problem in the City of Berlin, but I don't feel it is an emergency, and I think this matter could come up at the next session. Nobody is going to get hurt. There is no emergency right now. I am going to vote against it.

Sen. SANBORN: I have been appointed Chairman of this Special Committee to Study the Election Laws. I have nothing against this change or correction. We were looking at this midnight hour, and I have to agree that there is no town that could live by it. Since there is coming this year, before the Election Laws Committee is going to be able to make any reports, since the last time we met we were given the information by a

couple of lawyers that probably will take about two years to complete our duties. There is no way that we are going to be able to make any changes, I would assume, in the election laws for a long time to come. I do think that this does clarify somewhat the section in the laws and could prevent the possibility of a lawsuit at a future date. I will support Senator Bossie in this section of his amendment.

Adopted.

Amendment to SB 2

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public and modifying the time requirement for additions or corrections to the checklist.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Correction of the Checklist. Amend RSA 55:8 (supp) as amended by striking out said section and inserting in place thereof the following:

55:8 Cities and Towns. In cities and towns, they shall be in session for the correction of the checklist, at some suitable place in the city or town, two days at least before the day of the election, the last of which shall be the Saturday ten days prior to election and upon which all hearings shall be finally closed. The first session shall be upon the third Tuesday next preceding the day of election, and shall be adjourned to such subsequent day or days as will permit all claims to be heard and decided. The names of all persons not qualified to vote on or before said final Saturday session but who shall clearly be qualified to vote on election day, may be added to the checklist on or before said Saturday session. No additions or corrections shall be made after the close of normal session hours held for the correction of the checklist on the Saturday ten days prior to election day, except as provided in RSA 55:18. Said additions and corrections shall be made to the previously posted checklist before the close of the normal session hours held by the supervisors on the succeeding Wednesday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk. Notice of the day, hour and place of each session of the board of supervisors shall be given upon the checklists first posted.

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted. Ordered to third reading.

Sen. Trowbridge moved SB 1 to be taken from the table. Adopted.

Sen. TROWBRIDGE: I talked to Mr. Jennings from Legislative Services on the reason for the language in SB 1 on the effective date. I can state for the record that the word "act" as referred to in section 2 of this bill refers to SB 1, which will probably become Chapter 1 of the Laws of the Special Session of 1975. It does not refer to the act which put in HB 727. The reason they have to do that is that if it doesn't get passed by January 1 by any possibility, which is probably not going to be a problem, then there would be vested rights in contracts under the Blue Cross-Blue Shield new contracts which might exist for only two days, but then you would have to come back and repeal all of HB 727, which is now Chapter 349:4, re-write the entire bill, and put it into effect on July 1, 1976. You would have to re-do the whole thing. So the reason they advised us to do this is that we could get into a cumbersome legal problem, and they are informing the Governor that they have done this, and they hope that the Governor will realize that he has to act on this before January 1. So I am now content, and I think the message is loud and clear to everyone that the word "act" in section 2 refers not to the act which put in HB 727, but refers to this act that we are now taking.

Adopted. Ordered to third reading.

SB 3, increasing the authorization for boiler replacement at the veterans' home. Ought to pass. Sen. Brown for the Committee on Capital Budget.

Sen. BROWN: In the Capital Budget in the 1975 Regular Session, there was \$96,800 appropriated to replace the boilers at the Veterans' Home. Included in the Capital

Budget was a footnote stating that this sum would be reduced by federal funds if they were received. In the meantime, the Commandant of the Veterans' Home has contacted the Veterans' Administration. They have agreed to participate on the condition that the boiler house be renovated to meet the Life Safety Code. So what this bill does is boosts the total appropriation so that this can be done, but in turn, because of their participation, will reduce the state appropriation down to \$54,000, rather than the \$96,800. This proposal has been put together, and is out to bid now, and the bids are due to be opened January 15, 1976.

Sen. TROWBRIDGE: I concur wholeheartedly with the remarks of Senator Brown. I think that Mr. Tarr has done a very good job of trying to put this together and get it done for us. I urge its adoption.

Sen. Brown offered an amendment.

Sen. BROWN: The amendment changes the title to include the repairs to the boiler house, and there was an error in the original bill, which said \$155,000, and the figures should be \$154,000. That is the amendment.

Amendment to SB 3

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

increasing the authorization for boiler replacement
and authorizing repairs to the boiler house
at the veterans' home.

Amend the bill by striking out sections 1 and 2 and inserting in place thereof the following:

1 Increasing Authorization for Veterans' Home Boilers and Authorizing Repairs to the Boiler House at the Veterans' Home. Amend 1975, 504:1, VII by striking out said paragraph and inserting in place thereof the following:

VII. Veterans' Home

Boiler replacement and repairs to boiler house	\$154,000
Less Federal	100,000

Total Paragraph VII	\$54,000
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2 Bond Authorization Total. Amend 1975, 504:7 by striking out said section and inserting in place thereof the following:

504:7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2 and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$27,857,286 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A: provided, however, that the bonds issued for the purposes of section 1, subparagraphs IX, (d), (e) and (f), subparagraph X, (d) - (7), (8) and (10), paragraph XVI, and section 3 (furnishings and equipment) of this act shall have a maturity date of 5 years from date of issue; the project detailed in subparagraph VIII, (a) shall be financed by a 4-year note; and the bonds issued for the purposes of section 3 (construction) of this act shall have a maturity date of 30 years from the date of issue.

Amendment adopted. Ordered to third reading.

SB 4, to make a supplemental appropriation for the veterans' home. Ought to pass. Sen. Trowbridge for the Committee on Finance.

Sen. TROWBRIDGE: This is another item of the New Hampshire Veterans' Home. It gives a supplemental appropriation of \$6,000 for Other Personal Services at the Veterans' Home. In the budgetary process Mr. Tarr never really brought up for 1977 fiscal year the temporary help he needs at the Veterans' Home, and made no appropriation, even though there was one for 1976. We are simply filling in the mistake in the budgetary process for temporary services.

Adopted. Ordered to third reading.

SB 6, implementing the staggered registration system for private passenger vehicles. Ought to pass. Sen. Trowbridge for the Committee on Transportation.

Sen. TROWBRIDGE: You will recall that we passed the staggered registration bill last year. In working out the details implementing staggered registration, which is rather complicated, Fred Clarke and his colleagues have come across about four bugs in that legislation, which they asked me to clear up before it goes into effect April 1. I think the story on the front of the bill is about as good an explanation as any there is. (1) It restores the provisions for part-year fees for people who come in and register from November 1 to March 31. There was no provision for partial registration. They would have to pay the full year. We have always had the theory of partial registration, and this would restore this to the system. (2) The language for determining registration and permit fees for a registration which occurs in a month other than the owner's birth month is clarified so that the month of birth is included when determining the fees. If you are born in September, it includes the month of September, not just the months as you go forward. You pay one-twelfth of the fee each month. (3) The requirement for obtaining an operator's license or registering a vehicle that one show a resident tax receipt for the prior year is modified to allow showing a receipt for the current year as well. Really the language goes beyond that to say that the selectmen can certify in their opinion that the applicant should be granted a permit even though the residence tax has not been paid. This would be a problem when a person moves into the state. He is not on the list for residence taxes at that point; he hasn't paid them. He comes in to register his car in New Hampshire. He can't have paid the residence tax because he hasn't yet been billed for them, yet he can't register his car. This is the kind of bug they have been finding, and this gives some flexibility to selectmen to be able to allow him to register his car even though he hasn't paid the residence tax because he hasn't been billed for the residence tax. (4) It repeals RSA 260:27, III, as this paragraph merely repeats language already in the bill. So this is very much a housekeeping measure. I think the important reason why it has to be done now is that the system will go into effect in April, and if all the rules could be straightened out now, it will make it that much easier when they go into effect.

Adopted. Ordered to third reading.

Sen. Trowbridge moved that the requirement of printing with respect to SB 6 for transmittal to the House be suspended.

Adopted.

SUSPENSION OF RULES

Sen. Ferdinando moved suspension of rules so far as to permit a third reading and final passage of SB 1, 2, 3, 4, and 6 at the present time.

Adopted.

THIRD READING AND FINAL PASSAGE

SB 1, delaying the effective date of health and accident insurance coverage for mental illness for 6 months.

SB 2, specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public and modifying the time requirement for additions or corrections to the checklist.

SB 3, increasing the authorization for boiler replacement and authorizing repairs to the boiler house at the veterans' home.

SB 4, to make a supplemental appropriation for the veterans' home.

SB 6, implementing the staggered registration system for private passenger vehicles.

Adopted.

HOUSE MESSAGE

Mr. President

The House of Representatives has assembled under the authority of the call of a special session by the Governor and Council, and is now ready to proceed with the business of the 1975-76 special session.

Sen. Monier spoke under Rule 44.

Sen. MONIER: I would like to have as a matter of record in the Senate the following. Speaker Roberts just announced that the House will meet again in March to take action on committee reports, introduce and act on all Senate bills. He also indicated to the House that there would be no discussion or committee meetings with the Senate until that time.

RECESS
OUT OF RECESS

HOUSE MESSAGE

Mr. President:

The House of Representatives will be ready to meet the Senate in joint convention at 5 o'clock for the purpose of receiving his excellency the governor and any communication he may be pleased to make. (and that a joint committee of five consisting of three on the part of the House and two on the part of the Senate be appointed to wait upon his excellency and inform him accordingly).

The Speaker has appointed Representatives Drake, Philip Currier and Cullity on the part of the House.

The President has appointed Senators Brown and Downing on the part of the Senate.

Sen. S. Smith in the Chair.

Sen. JACOBSON: At this time I think we have two alternatives that we could move in the direction of. Listening to the speech of the Governor, I think he would be in accord with this. That is that we adjourn to the call of the Chair, or we adjourn to March 16. At the moment I think probably the best procedure would be to adjourn to the call of the Chair. The Chair would promise that there would still be the basis on which we agreed this morning, and that is that only necessary and emergency legislation be introduced and that the Special Session be clearly restricted to those matters. I believe any other action would not be in the public interest at this time.

Sen. MONIER: Quite frankly, I listened to the Governor's speech, and I don't think the House will take action tomorrow, but I agree with Sen. Jacobson to ask for an adjournment to the call of the Chair. The only reason, this doesn't change my mind one little bit, because I am still concerned not only with HB 727, which we were called into session for, but what is going to happen to the total Special Session. My comments are directed at the simple fact that today is a classic example of how the New Hampshire State Senate has been in a sense put in a position where we are waiting on and doing things with the House under their control. I object to this. We were called back by the Governor and Executive Council to handle a specific major problem. I think the Senate handled it very sensibly, logically, and met its obligation to the public. I don't think the House did. I would therefore say that in order to forestall any of the nonsense of having other bills inundating us on March 16 that I would have asked the Senate to consider adjournment. Therefore, if we wanted to come back, we could have been called back by the Governor and Executive Council. At this time, since there is one more day before January 1, I would support the idea that we adjourn at the call of the Chair. I predict, however, that there will be no action taken tomorrow. Therefore, if there wasn't I will probably be sorry that I didn't ask that we adjourn, because when we get back on March 16, Senator Jacobson is correct, we can handle HB 727 then, the real crux of the issue is to have extended that date so that January 1 it did not go into effect. If I may add, it was within six votes of two-thirds of suspending the rules. Obviously there was a large majority of elected officials in that House that felt the same way we did.

Sen. DOWNING: I am somewhat concerned with the direction we seem to be moving in. A few people mentioned out there that there is going to be a second effort to reconsider SB 1 in some form or another. I recognize the storm outside, and people are anxious to go home. I wonder if some of us might not remain, in the event that the House does take some positive action with regard to SB 1, with some sort of agreement that we could react to that, those members that are left here tonight, concur with their amendment if they send it over amended to April 1, for example. The Governor's message just may have had some effect. It was just a matter of five votes that would have to be changed. In fact it passed the first time, but the Speaker came out with some

parliamentary maneuvering, and it came out five votes short. That just may be redirected now. It would seem to me a shame if we could settle the matter tonight that the Senate would have to come back tomorrow and probably go through another thing like this on New Year's Eve. I just wonder if we can't explore that a little bit and see if we can't bring in some ground rules. The President has already said that no other business can be taken up other than those matters, that we are going to end up either one of two ways, either adjourning to the call of the Chair when we do leave here tonight or adjourning to March 16. If that is agreeable to all the members, then maybe we could also agree that if SB 1 or any of the other bills come over here in an amended form acceptable to those Senators that remain, that we have their permission to accept them and process them.

Sen. MONIER: You said that there is some comment to the effect that they are going to take some action on SB 1 now?

Sen. DOWNING: It is my understanding there is going to be a new effort to reconsider or put it forth in a different version and try to get some action on it now. It may be that ten or fifteen minutes from now we may have the answer that they are not going to do anything, and they are coming back tomorrow. In that case we would adjourn to tomorrow or whatever. As long as we all understand what is going to be done, it seems to me that those who need to leave could leave and those who are able to remain could remain and deal with it and take a chance that we could wrap it up this evening.

Sen. BROWN: I support Senator Downing's move. I also heard that there was going to be a further effort to do something about SB 1 tonight. I would also request that as many Senators as possible stay until we can find out definitely whether there will be something done.

Sen. JACOBSON: I will state that regardless, there would be an enrolling bills process with regard to SB 3 that will have to take place, so that I think probably the procedure now, unless there is further points to discuss, that we stand in recess until such time as we know what we are going to do.

Sen. DOWNING: Do you see any problem with those Senators that feel as though they need to leave, to leave, and the Senators that are left being able to handle the business that is left, if in fact there is any business to handle?

Sen. JACOBSON: The Constitution requires that we have thirteen Senators present for a quorum. The only change that I could possibly see happen where we would need action, other than enrolling action, would be if they changes it from 180 days to 90 days. As far as I am concerned, I am happy with the 90 days, and maybe we could take the feeling on the 90 days, because 90 days would then throw it over to March 16, and if it was required, we could postpone it 90 days more, as part of any new package of legislation, if it should develop it would be impossible for Blue Cross-Blue Shield to carry out any changes that may be proposed.

Sen. BLAISDELL: Would it be possible in a short recess to go in and talk to Speaker Roberts and ask him if he has any intention of coming back tomorrow?

Sen. JACOBSON: We could certainly take a recess and go in and find out. I don't think he knows, though, at the moment.

FURTHER HOUSE MESSAGE HOUSE CONCURRENCE

SB 3, increasing the authorization for boiler replacement and authorizing repairs to the boiler house at the veterans' home.

RECESS OUT OF RECESS

Senator Jacobson in the Chair.

ENROLLED BILLS REPORT

SB 3, increasing the authorization for boiler replacement and authorizing repairs to the boiler house at the veterans' home. Sen. Lamontagne for the Committee.

Adopted.

Senator Downing moved that the Senate adjourn from the early session and that the

business of the late session be in order at the present time and that when we adjourn, we adjourn until March 16 at 1:00 p.m.

Sen. MONIER: A little while ago I served notice to you and you had accepted this, that I wanted to make a motion of adjournment, if certain things happened. You then accepted a motion to move to the late session, and immediately another motion from Sen. Downing.

Sen. LAMONTAGNE: I thought we had an agreement here before I left for the engrossing of bills that we were going to adjourn at the call of the Chair. What happened to that?

Chair: The motion offered by Sen. Downing is to March 16. That is open to amendment.

Senator Lamontagne moved to amend the motion to adjourn "to the call of the Chair."

Sen. LAMONTAGNE: I personally feel that if HB 727 is acted on by the House, that we ought to leave ourselves open to the call of the Chair. I think it would be a lot easier to be called by the Chair in case there is an emergency between now and March 15. I think this would be a better way of doing business, and the easiest way to handle it, too.

Sen. DOWNING: The Senate had sort of agreed that March 16 would be the next date. There doesn't seem to be a question prior to that before the House. So if we just adjourn to March 16 as the motion was, we can leave.

Sen. MONIER: Have you precluded the fact that a motion can be made to adjourn period?

Chair: A motion to adjourn period can be made.

Sen. MONIER: At what time? Until such time as we have recessed or gone into adjournment? At any time until this body is dismissed?

Chair: At any time until this body is dismissed.

Sen. BLAISDELL: I would like to speak in favor of the motion of Sen. Lamontagne to adjourn to the call of the Chair. That is a responsible thing to do.

Sen. S. SMITH: I rise in opposition to Sen. Lamontagne's motion and in support of Sen. Downing's motion. I do so to adjourn to a date certain. I think many Senators have plans, business commitments of many kinds and to fiddle-faddle away, not knowing when we are coming back I think is poor planning, poor business. I think if we adjourn to March 16 as was the original motion, that we have a time certain, the House then knows that we have a time certain so that they cannot put pressure on one way or another to try to get the Senate back into session at some other time. This is why I hope the Senate will go along with Senator Downing's original motion.

Sen. BLAISDELL: What would happen tonight if we leave here if the House passes that bill in any form? We wouldn't be able to come back until March 16 or do we have to have a two-thirds vote to bring everybody back?

Sen. SMITH: The House, it is my understanding, is not going to take action on that tonight or tomorrow.

Chair: The House has just adjourned to the call of the Speaker.

Sen. BOSSIE: It was my understanding that the leadership of both parties of our Senate had agreed to come today and come back in March. With this in mind, I know you have plans to be out of the country in January, and I intend to be on vacation for the first two weeks of February. I made these plans official only yesterday, only after waiting until I heard from the leadership. I would prefer we adjourn until March 16.

Sen. LAMONTAGNE: Seeing that the information has just been received from the House that they have adjourned to the call of the Chair, why should we have to be different? Good common sense is to have the same call as the House has—at the call of the Chair.

Sen. ROCK: I think the Senate today has acted in a most responsible manner to a problem of high priority. I think that I must share the thoughts of the Senator from the First District that when we go home to our constituents tonight, having acted in a responsible manner and having taken the action that could preclude a very expensive process being foisted on our constituents that they will not understand nor do they sit here in this body watching the parliamentary procedures. They will only understand that they have been hit in the pocketbook and they are being forced to pay charges which they would not have to pay if this matter had been postponed. That kind of thought on the part of constituents would lead them to think that all of us in Concord acted irresponsibly. I am sure as well as the press might try to explain that to the voters

and the taxpayers and the rate-payers of Blue Cross-Blue Shield and others, it will be an impossible story to tell. As the public becomes aroused at this and realize what these costs are, their efforts on their elected officials on the other side of the wall may force them into a position to come back, and since they are adjourned at the call of the Chair, could do so at any time, where we are boxed in with a motion that would mean we could not come back until March 16. So I would hope that we would all think very hard before we vote on this as to what the effect might be if we take an action that precluded us from coming back in 10, 20, 30, or 40 days earlier than March 16.

Division Vote: 14 yeas; 5 nays. Amendment adopted.
Motion adopted.

LATE SESSION

Sen. Lamontagne moved that the Senate adjourn to the call of the Chair.
Adopted.

Senate adjourned at 6:40 p.m.

Tuesday, 16 March 1976

The Senate met at 11:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, help us to take a fresh look at ourselves, as we undertake our duties this day. Be in our hearts as well as our heads. Save us from the discord that has existed. Order our outward actions by an inner righteousness and peace. Show us the way to be firm in the right but also how to accept correction when we are wrong. As stewards of this state's welfare, light the pathway of peace for this Special Session, making us ever mindful of Thy Presence in whatsoever we do. Amen.

The Pledge of Allegiance was led by Senator Brown.

Senator Jacobson announced that Sen. Trowbridge would be unable to attend the Special Session as he is undergoing an operation at Massachusetts General Hospital.

Sen. Stephen Smith moved adoption of the report of the Committee on Rules and Resolutions regarding introduction of Senate bills.

Sen. S. SMITH: The Committee listened to testimony, evaluated the legislation which it felt was necessary, which was proposed by members of the Senate, and has recommended this list of bills which we feel should be brought in at this Special Session of the Legislature.

Sen. DOWNING: I rise in support of the pending motion. I must say that the process was a long and difficult one. While everything requested is not included, I think everything that could gain the support of the majority of the committee is. I urge you to support the motion.

Adopted

INTRODUCTION OF SENATE BILLS

Sen. Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, as approved by the Senate Rules Committee for introduction, Senate Bills numbered 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, and SJR 1 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

SJR 1 establishing a special committee to study tax reform at all levels of govern-

ment. (Blaisdell of Dist. 10; Sanborn of Dist. 17; Townsend of Sullivan Dist. 1-To Ways and Means)

SB 7 permitting any state agency to return to the sender a check, draft or money order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met. (Smith of Dist. 15-To Executive Departments, Municipal and County Government)

SB 8 amending the footnote to the current operating budget for the nurses registration board. (Smith of Dist. 3-To Finance)

SB 9 increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor. (Fennelly of Dist. 21-To Finance)

SB 10 repealing section 10-a of the Berlin city charter relative to absentee voting in the annual city elections and repealing the 5-day requirement for correction of the checklist in Berlin. (Lamontagne of Dist. 1-To City Legislation)

SB 11 redefining the term "master electrician" as used in RSA 319-C. (Preston of Dist. 23; Benton of Rockingham Dist. 2; Dickinson of Carroll Dist. 2-To Executive Departments, Municipal and County Government)

SB 12 establishing a special legislative committee to investigate certain aspects of the unemployment compensation law. (Saggiotes of Dist. 8-To Rules and Resolutions)

SB 13 relative to the confidentiality of dental review committee proceedings. (Claveau of Dist. 14-To Judiciary)

SB 14 to allow a district court justice to establish the court clerk's salary. (Downing of Dist. 22; Sayer of Rockingham Dist. 5-To Judiciary)

SB 15 continuing the solid waste committee. (Foley of Dist. 24; Greene of Rockingham Dist. 17-To Environmental Control)

SB 16 relative to money deposited for the future use or rental of a motion picture film. (Ferdinando of Dist. 16-To Banks and Insurance)

SB 17 providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets. (Blaisdell of Dist. 10; Brown of Dist. 19-To Recreation)

SB 18 permitting the removal of contents of a safety deposit box by a surviving joint tenant without approval of the department of revenue administration. (Preston of Dist. 23-To Banks and Insurance)

SB 19 making a supplemental appropriation for the bureau of markets in the department of agriculture. (Bradley of Dist. 5-To Finance)

SB 20 making an appropriation to the department of agriculture, water supply and pollution control commission, and the department of entomology, university of New Hampshire (Bradley of Dist. 5-To Finance)

SB 21 providing, within the program on alcohol and drug abuse, technical assistance to employers and employee organizations in developing programs for early identification and referral to treatment of employees who are affected by alcohol or drugs, and making an appropriation therefor. (Boisse of Dist. 20; Copenhagen of Grafton Dist. 13-To Public Institutions)

SM 22 to permit the liquor commission to purchase land in Manchester for locating a state liquor store and making an appropriation therefor. (Provost of Dist. 18-To Joint Committee: Capital Budget and Finance)

SB 23 reinstating Hesser college as a corporation and ratifying certain degrees granted by them. (Monier of Dist. 9; Ferdinando of Dist. 16-To Education)

SB 24 amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to New Hampshire upon discharge from military service. (C of Dist. 14-To Finance)

SB 25 to permit any prospective juror who does not smoke to be discharged from serving as a juror unless non-smoking regulations are stipulated for the jury deliberation room. (Rock of Dist. 12-To Judiciary)

SB 26 requiring persons convicted of driving while under the influence of intoxicating liquors or controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program. (Jacobson of Dist. 7; Ferdinando of Dist. 16-To Joint Committee: Public Institutions and Finance)

SB 27 making a supplemental appropriation to the bank commissioner. (Jacobson of Dist. 7; Ferdinando of Dist. 16-To Finance)

SB 28 relative to the registration and operation of mopeds. (Jacobson of Dist. 7; Rep. Murray of Belknap Dist. 9-To Transportation)

SB 29 relative to licensing of diagnostic or treatment facilities. (Smith of Dist. 15; Blaisdell of Dist. 10-To Public Institutions)

SB 30 amending the qualification requirements for the directors of the divisions of public health services, welfare and mental health within the department of health and welfare. (Bergeron of Dist. 6-To Public Institutions)

SB 31 relative to limited credits for retailers, vendors and sub-jobbers of tobacco products and increasing the license fees for wholesalers and sub-jobbers and retailers of tobacco products. (Rock of Dist. 12-To Energy and Consumer Affairs)

SB 32 relative to the land sales full disclosure act. (Monier of Dist. 9-To Energy and Consumer Affairs)

SB 33 upgrading certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor. (Downing of Dist. 22-To Joint Committee: Public Institutions and Finance)

SB 34 to permit the taking of depositions in civil cases by means of video tape recordings. (Bossie of Dist. 20-To Judiciary)

SB 35 relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities. (Foley of Dist. 24-To Ways and Means)

SB 36 relative to selling sporting event lists by the sweepstakes commission and making an appropriation therefor. (Bossie of Dist. 20; Sanborn of Dist. 17-To Ways and Means)

SB 37 relative to the use and possession of intoxicating beverages by pupils on school property. (Jacobson of Dist. 7-To Education)

SB 38 providing for local option approval of the sport of jai alai under the direction and supervision of the state jai alai commission. (Sanborn of Dist. 17; Rep. Kashulines of Rockingham Dist. 3-To Ways and Means)

SB 39 requiring credit card companies to notify credit card holders whenever their records are disclosed to any federal or investigatory agency under court order to subpoena. (Rock of Dist. 12-To Energy and Consumer Affairs)

SB 40 amending a contributory pension system for employees of the city of Manchester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system. (Bossie of Dist. 20; Provost of Dist. 18; Sanborn of Dist. 17-To Special Committee: Manchester Delegation)

SB 41 permitting the placement of persons in need of supervision in certain shelter care facilities. (Bradley of Dist. 5-To Judiciary)

SB 42 relative to the dissemination of hard-core pornographic materials. (Foley of Dist. 24; Kraskes of Rockingham Dist. 22-To Judiciary)

SB 43 revising the economic poisons law. (Bradley of Dist. 5-To Environmental Control)

SB 44 relative to changes in the fuel adjustment charges of public utilities. (Rock of Dist. 12; Monier of Dist. 9-To Energy and Consumer Affairs)

Sen. S. Smith moved to amend Senate Rule 14 and Senate Rule 22 of the Special Session.

Sen. S. SMITH: These two amendments you will find on a sheet of paper before you, on your desks. If you will recall, at the last meeting of the Senate on December 30, we adopted the 1975 Senate Rules in toto for the Special Session, with the understanding that amendments could be made, I believe, through the third day of the Special Session by majority vote. These two amendments are necessary to make the operation of the Special Session slightly easier. They are amendments to Rule 14 which changes the last portion of that rule from the wording, "or on the next day on which the Senate shall be in session within one-half hour after convening of the early session and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void." The problem with that is we are going to be meeting irregularly, I hope. It may be two weeks before we meet again. What this amendment will do, it will allow reconsideration, if you voted with the majority and walk out of here and someone tells you that you lost your mind on your vote, in the passage of some legislation, you will still have twenty-four hours in which to reconsider or put the Senate on notice of reconsideration. By the amendment you would have to give within twenty-four hours after the recess of that day's session, notice to the Clerk of the reconsideration. It is felt that this will aid and assist in carrying out a smooth operation of the Senate because if we pass something, then have two weeks, it may mean that the House will set up hearings and will have held hearings and taken action before we come back and take action on the notice of reconsideration. I think this would smooth that out.

The second amendment is relative to hearings. In the regular session you have to have notice two legislative days before a hearing can be held. Again, with a staggered session we are talking about, we want the Senate to change so that the advertisement in the Journal of the Senate is at least two calendar days prior to the hearing. It gives two calendar days, rather than two legislative days. I hope the Senate will go along with these two changes.

Sen. BRADLEY: Under Rule 14, are we adding that last sentence, which is not now in the Rule? Is that correct?

Sen. S. SMITH: That portion that is underlined is not in the rule. What is in the Rule reads the same until you get through the work "passed", and then, "or on the next day on which the Senate shall be in session, within one-half hour after the convening of the session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void."

Sen. BRADLEY: Does the last sentence mean that the matter has to be finally disposed of on the next legislative day?

Sen. S. SMITH: That is correct.

Sen. BRADLEY: Couldn't a motion to make a Special Order for another legislative day, would that be out of order then?

Sen. S. SMITH: No. I don't think that would be out of order at all. It is just that we would have to reconsider it on the next legislative day. Then it would come up. Then a motion, I believe, would be in order to make it a Special Order for the next legislative day or whenever. But at least, by this Rule, it gets action moving so that we know where we stand with that piece of legislation. Then the bill, if you want to postpone it and make it a Special Order for 2:01 on June 23, I hope not, we could have it at that time.

Sen. BRADLEY: On Rule 22 was there any particular reason for selecting two calendar days, rather than some longer period? It has always seemed to me that two days is really not sufficient, whether you are talking about legislative days or calendar days.

Sen. S. SMITH: I think it was done to help expedite the session. If the calendar will be out, we hope, within a few days after this session, then I think it is the hope of the Rules Committee that hearings will be held as soon as possible, so that when we do return, as we are planning, I believe, on the thirtieth, that action can be taken on the legislation which is being introduced today.

PARLIAMENTARY INQUIRY

Sen. BRADLEY: Does the Chair concur with Sen. SMITH'S interpretation of the last sentence of Rule 14, that it does not require final disposition of a matter, but only that the matter be acted upon in some fashion?

Chair: The Chair concurs with the Senator from the Third District in that the sentence change related only to the notice of reconsideration and that the question of a Special Order is a separate question, so that the motion of reconsideration could be then ordered to a Special Order.

Sen. DOWNING: I rise in support of the pending motion and relative to the question that was asked by the Senator from the Fifth District on Rule 22, I would just point out that now we refer to legislative days, and expecting our next legislative day might be the thirtieth, tentatively at least, if we had to advertise two legislative days, you can see that we would not be able to hold any hearings until we come back here again, at which time we hope to have committee reports. So that is the reason we are reverting to hours and calendar days rather than legislative days. I support the committee report.

PARLIAMENTARY INQUIRY

Sen. BRADLEY: With respect to Rule 22 as proposed, how would those two calendar days be counted? Does that mean that a notice could be in the calendar on a Wednesday, and then again on a Thursday, and the hearing be held on Thursday?

Chair: I believe that that has been the procedure. However, it is hoped that we could exercise it in such a way that if the notice were in Wednesday and Thursday, that the hearing then would be on Friday. But the use of the calendar in the regular and special sessions prior to this one has been that the two-day notice would be the two-day calendar of the Wednesday and Thursday. However, if the sense of the Senate wishes to have that to be interpreted as forty-eight hours, I don't believe there is any great objection to having that kind of interpretation.

RECESS
OUT OF RECESS

Sen. S. SMITH: In regard to Rule 22, what the idea is is to advertise each hearing at least two days in the newspaper. I think if we are to expedite the session, that we have to have the two-day notice. I anticipate, this being Tuesday, that the chairman would get together after the session, schedule all of these bills for hearing, probably next week, in fact they should all be heard next week so that the committee reports can be brought in on the thirtieth. It seems to me that this is ample time because even though the minimum is two calendar days, I think the bills will have the weekend in addition to the advertising in the journal. Actually it will be many more days than two.

AMENDMENTS TO SENATE RULES FOR SPECIAL
SESSION

14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such a motion be given to the Senate in open session prior to adjournment on the same day on which the vote was passed *or within twenty-four calendar hours by notice to the clerk. Any notice of reconsideration must be acted upon the next legislative day.*

22.

A hearing shall be held upon each bill referred to a committee and notice of such hearing shall be advertised *in the Journal of the Senate at least two calendar days prior to the hearing.*

Amendments Adopted.

MOTION TO VACATE

Sen. Downing moved SB 17 be vacated from the Committee on Recreation and Development and be referred to the Committee on Finance.

Sen. DOWNING: The reason for making this motion is that this subject matter was referred to the Senate Ways and Means Committee during the regular session and the result of that and a disagreement within the industry, it was referred to interim study by the Ways and Means Committee. The Ways and Means Committee has completed that study. It held another public hearing, and this represents a compromise bill which is acceptable to the industry. It would seem that the proper place for it at this time would be in Finance.

Adopted.

Sen. Bossie moved SB 32 be vacated from the Committee on Energy and Consumer Affairs and be referred Jointly to the Committee on Energy and Consumer Affairs and the Committee on Executive Departments and Municipal and County Government.

Sen. BOSSIE: The purpose of this is the fact that Sen. Monier's Committee has already done a substantial amount of work on this and also the Energy and Consumer Affairs Committee has a great interest in this as well. So we would like to have them jointly held and the committees can share their information, and we can make a joint report.

Sen. MONIER: I am in support of the motion. Sen. Bossie and I have discussed this prior to the meeting. Some of the information that is in this bill, which is being drafted by the Attorney General, had already been heard in the Executive Department Committee and the testimony is available and the persons have heard it.

Adopted.

Sen. Poulsen moved SB 20 vacated from the Committee on Finance and be referred to the Committee on Recreation and Development.

Sen. POULSEN: While this bill deals with insect control, it does have an appropriation, whatever action the Recreation Committee took, it would eventually go to the Committee on Finance, anyway, and the action to be taken against insects, I think is of great concern to the sporting public, and I think the Committee of Recreation should certainly have a look at the theory before it is brought in for the financial aspect.

Adopted.

Sen. McLaughlin moved SB 30 be vacated from the Committee on Public Institutions

and be referred to the Committee on Executive Departments and Municipal and County Government.

Sen. McLAUGHLIN: This bill was further studied in Executive Departments previously, and they have all the background information on it, and I think they can do a better job without our spending a lot of time to review it at this time.

Sen. MONIER: I just wanted to rise in support of the motion. In our discussions on the many bills on the Health and Welfare organizational structure, we had a tremendous amount of testimony that affects this.

Adopted.

INTRODUCTION OF CONCURRENT RESOLUTION

SCR 1, to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency. (Monier of Dist. 9 and Trowbridge of Dist. 11-To Committee on Rules and Resolutions)

Senatory Jacobson announced that Sen. Sanbornn is co-sponsor of SB 16, relative to money deposited for the future use or rental of a motion picture film.

SEN. S. Smith presiding

Sen. JACOBSON: I would like to take a few moments to speak as to what we project to be the future dates of the Special Session. Our hope is that as many of the bills as possible can be heard next week. We could then have the committee reports ready and have a full calendayr on Tuesday, March 30 and also, in all probability, Wednesday, March 31. It is my hope that the House will also act on most of its legislation on those two dates, so that we can then have the passover of the bills. Then whatever House bills do pass, would then be referred to the Senate Committees and the Senate committees would then have two or three weeks to deal with the House bills. Then we would meet some time after April 23, after the week of school vacation. Hopefully the House would meet then also and we can act both ways and conceivably finish up the work of the Special Session. This would mean approximately five or six days of the Special Session. That is the plan at the moment. Now it will need a few changes for bills that have appropriations on them and are in other committees than the Finance Committee. In those bills that are in the Division of Finance, we have sent them to joint committees with Finance, so that we do not have to have a crossover to come up at the same time. Hopefully we could work out something so that on those two dates we could get all the work of the Senate done. I ask your cooperation in seeking to accomplish that.

Sen. BLAISDELL: School vacation in Keene is the week of April 25.

Sen. JACOBSON: We can accommodate so that everyone is happy.

SEN. Jacobson presiding

RULE 44

Sen. Monier spoke under Rule 44.

Sen. Lamontagne moved the introduction of a bill not approved for introduction by the Rules Committee.

The Chair stated that if a bill has been turned down by the Rules Committee, it would take a two-thirds vote of the Senate for introduction.

Sen. LAMONTAGNE: You have a copy of the bill before you. This is in reference to increasing the weights of limits for certain vehicles and semi-trailers on highways. Somehow the title of this bill, I do not consider it to be fair, because I don't think it really means that. What I am trying to say is, that this is an increase on interstate highway systems. The reason I am introducing this bill at this time is that I consider it to be very important. I consider it to be urgent to the trucking industry of New Hampshire. The State of Maine has passed 80,000 lbs. In order for the State of Maine to make connections with the rest of the United States on the interstate system, it is necessary for New Hampshire to adopt the federal law, which has been passed to increase the weights from 73,280 to 80,000 lbs. I have taken the Whitaker amendment (the Whitaker amendment is what the House really objected to) I have taken that out. The Whitaker amendment went for all the highways in the state of New Hampshire. Now what is

before you is 80,000 lbs. on the interstate system. My people up North are not going to benefit in any way by this bill because we have no interstate systems around the First District. Right now there is a promise that has been made, and the trucking industry of Maine have been very cooperative with New Hampshire. The Secretary of the Truck Owners' Association and myself went to Portland, Maine, and we have met with the truck owners of Maine. We have asked them to wait and give us a chance to appear before the Special Session in order to be able to see if we could put the 80,000 lbs. through New Hampshire on the interstate systems only. The Governor of the State of New Hampshire has been contacted and the Governor is in favor of this bill, too. The Highway Commissioner of New Hampshire has been contacted by the Highway Commissioner of Maine. The Motor Vehicle Commissioner has also been contacted by the Motor Vehicle Director of the State of Maine. The State of Maine has been very cooperative in waiting for this Special Session. I don't think it is right for us to stop 80,000 lbs. at the New Hampshire border. I believe that the State of Maine, seeing that they have passed the 80,000 lbs., that New Hampshire should at least allow them to pass on federal highways.

Now how could this affect the New Hampshire truckers? The State of Maine has an agreement with the Motor Vehicle of New Hampshire and therefore the agreement that we have with the State of Maine, certainly the New Hampshire truckers could be hurt, if the State of Maine ever turned against the New Hampshire truckers. I urge you to adopt this bill. Please understand that this is not on the New Hampshire highways, as it was under the Whitaker amendment, that this is only on the interstate highway system, approved by the federal government. I urge the adoption of this bill.

Sen. CLAVEAU: I would like to say that this is a matter of most importance, as far as the transportation industry is concerned. It does not only involve Maine, but it involves other New England states also. I think it should be given a hearing and let the bill be presented.

Division: 12 yeas; 8 nays. Motion failed.

ROLL CALL

Senator Lamontagne requested a roll call, seconded by Sen. Downing.

The following senators voted yeas:

Sen. Lamontagne, Poulsen, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Claveau, Robert A. Smith, Ferdinando, Sanborn Provost and Brown.

The following senators voted no:

Sen. Stephen W. Smith, Bradley, Blaisdell, Bossie, Fennelly, Downing, Preston, and Foley.

Result: 13 yeas; 8 nays. Motion failed.

RULE 44

Sen. Bradley spoke.

Sen. Ferdinando spoke.

PARLIAMENTARY INQUIRY

Sen. ROCK: Notwithstanding the debate that we have just heard and the vote by roll call, is it my understanding that should legislation that is deemed to be an emergency by a member of the Senate come to his attention at this time that he could ask again for suspension of the Rules for a bill to be introduced to the Rules Committee or would it be introduced by title, printed, and then referred to the Rules Committee for their consideration?

Sen. JACOBSON: The Chair would state that if any such as you describe would be required by a Senator to be introduced he may then give it to the Rules Committee, the Rules Committee will act on it and bring in their report. The approval or the disapproval by the full Senate on the report will then determine the status of the bill. He may then take the secondary level and ask for the suspension, as was done in this past case.

Sen. ROCK: So am I understanding correctly that a piece of legislation, whatever, could be introduced, it would then be referred to the Rules Committee, who apparently are still in a position to accept legislation, during this Special Session?

Sen. JACOBSON: Yes, that is the practice that has been established by previous special sessions, and I see no reason not to continue it since there has been established no cutoff date for the introduction of bills vis-a-vis the Rules Committee.

Sen. Downing moved that the Senate adjourn from the early session and that the business of the late session be in order at the present time and that when we adjourn, we adjourn in honor of the distinguished Senator from District 1, the new Mayor of Berlin, until March 30 at 11:00 a.m.

Adopted.

LATE SESSION

Sen. Lamontagne moved that the Senate adjourn at 12:20 p.m.

Adopted.

Tuesday, 30 March 1976

Special Session No. 3

The Senate met at 11:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Father, take from our souls the stress and strain. Raise us above the trivialities which tend to tear us down. Inspire within us lofty endeavors, which will put forth the good to all mankind. We pray that we may see clearly the proposed legislation which we shall be faced with during this Special Session. Hear our prayers—Oh Lord. Amen.

The Pledge of Allegiance was led by Senator Poulsen.

HOUSE MESSAGE

First and second reading and referral

HB 30, making a supplemental appropriation to the division of mental health and the division of welfare for medical assistance recipients who are 65 years or older and are patients of psychiatric institutions. (Finance)

COMMITTEE REPORTS

SB 16, relative to money deposited for the future use or rental of a motion picture film. Inexpedient to legislate. Sen. Bergeron for the Majority. Ought to pass. Sen. Ferdinando for the Minority. (Committee on Banks & Insurance)

Sen. Bergeron moved that SB 16 be sent to Banks and Insurance for interim study.

Sen. BERGERON: Evidently some additional information has come to pass. We had our hearing, the committee had made a decision, and I am just informed now that the committee has reconsidered and wishes it to go to interim study.

Adopted.

SB 18, permitting the removal of contents of a safety deposit box by a surviving joint tenant without approval of the department of revenue administration. Ought to pass. Sen. Preston for the Committee on Banks and Insurance.

Sen. Preston moved that SB 18 be laid on the table.

Adopted.

SB 10, repealing section 10-a of the Berlin city charter relative to absentee voting in the annual city elections and repealing the 5-day requirement for correction of the checklist in Berlin. Ought to pass. Sen. Ferdinando for the Committee on City Legislation.

Sen. FOLEY: This bill simply puts Berlin in line with the rest of the state in regard to rules on absentee voting and the five-day requirement for the correction of the checklist. The only person who appeared was Sen. Lamontagne, who wanted us to go along in favor of the bill. We move its passage.

Adopted. Ordered to third reading.

SB 23, reinstating Hesser college as a corporation and ratifying certain degrees granted by them. Ought to pass. Sen. Provost for the Committee on Education.

Sen. PROVOST: This bill came about through an oversight on the part of the accountant and not known to the college officials. They failed to file the annual return required by the Secretary of State for two years in a row. As a result, the Legislature was notified by Robert Stark, and under an omnibus repeal bill, Hesser was dissolved last year. The college was not aware of this until they filed for renewal of their trade name and found out that this year they were no longer a college. In the meantime, they awarded degrees in January, and there are a group of boys and girls ready to have their degrees awarded this spring. What they are asking is that this bill be adopted so that it would reinstate the charter of Hesser retroactive to the date it was dissolved, upon a payment of all fees required, and an affidavit requesting to be reinstated.

Sen. S. SMITH: Is it true that the attorney who represented Hesser College said that from now on, instead of the accountant, that the attorney would file the proper paper?

Sen. PROVOST: Yes.

Adopted. Ordered to third reading.

SB 37, relative to the use and possession of intoxicating beverages by pupils on school property. Inexpedient to legislate. Sen. Sanborn for the Committee on Education.

Sen. Brown moved that **SB 37** be laid on the table.

Adopted.

SB 44, relative to changes in the fuel adjustment charges of public utilities. Ought to pass with amendment. Sen. Saggiotes for the Majority. Ought to pass. Sen. Bossie for the Minority. (Committee on Energy and Consumer Affairs)

Sen. Saggiotes moved adoption of the majority report.

Sen. SAGGIOTES: **SB 44** was introduced, I suppose, largely because of certain charges that were included in the fuel adjustment charge of users of Public Service Company of New Hampshire due to a breakdown which they had some time ago. It was the opinion of the sponsors of this bill that such charges should not be passed on to the consumer but rather absorbed by the owners of the company, the stockholders. I suppose. The amendment that is being offered by the majority does more or less what the sponsors of the bill intended to do as far as having a public hearing. You may hear later that it takes the guts out of the bill, but I don't think that it does except in one instance where the amendment deletes part of the bill that disallows the utility company to include in the fuel adjustment charge any costs that arise due to power breakdowns where the companies have to buy power from another source that does include a fuel adjustment charge that the New Hampshire utility company passes on to the New Hampshire consumer. By present law, the utility companies of New Hampshire have periodic inspections, and during these periods of inspection, they do have to shut down certain parts of their plants and in order to continue to service the consumer with power they must go out and buy power from another source rather than try to generate it themselves at a much greater cost than it would cost them to buy it from another source. What the amendment really does is it allows for public hearings to be conducted by the Public Utility Commission, they shall be advertised in a newspaper at least fifteen days prior to the hearing, and it is my understanding that one of the major utility companies in New Hampshire, Public Service Company, supports this. They feel it is a good public relations gesture to let the public know what they are being charged for. So the majority of the committee felt that the amendment was a much better bill than the original bill.

Sen. ROCK: May I ask the Senator from the Eighth District who it was that presented the amendment to the committee changing **SB 44**, as it has now been emasculated?

Sen. SAGGIOTES: As you recall, we had a pretty open executive session, and we offered all concerned parties another opportunity to express themselves. I believe you were given that opportunity. We had quite an informal session, you included with the committee. So we thought it was only fair to allow the opposition to sit in, at least I felt it was fair, so we were willing to accept any recommendation. To answer your question, this amendment was offered by a Public Service Company of New Hampshire employee.

Sen. ROCK: So I am correct then in looking at page 5 of the Senate Calendar for today, and this amendment as it was presented to the committee's executive session was drafted word for word by the Public Service Company of New Hampshire, is that correct?

Sen. SAGGIOTES: This amendment that you have on page 5 of today's calendar is the same amendment that was offered to the committee in executive session, and it was presented to us by an official of the Public Service Company of New Hampshire.

Sen. ROCK: In the amendment, am I correct in interpreting it that it says, "Upon petition of any public utility generating electricity in New Hampshire for sale to retail customers served by it in this state to include a fuel adjustment charge in any monthly billing to said retail customers, the commission (Public Utilities Commission) shall hold a public hearing on said petition . . .", am I correct and to understand now that if we are to have a public hearing on the fuel adjustment charge that it has to be originated by the utility charging it rather than as a matter of course by the Public Utilities Commission?

Sen. SAGGIOTES: I would say that the public utilities company would petition the commission, the PUC, and the PUC would order the public hearing.

Sen. ROCK: Does the Senator from the Eighth District really believe that the public utility generating the electricity is going to petition for a public hearing when it raises its fuel adjustment charge?

Sen. SAGGIOTES: Yes, I believe so. As a matter of fact, the major public utility company of New Hampshire supports this, and they support it for the public relations effect that it would have for them.

Sen. MONIER: With this amendment Sen. Rock has just been discussing with you and which has been brought to that committee by members of the Public Service Company, I would like to ask two questions. One of the most important parts of the bill Sen. Rock and I introduced is section II of 378:3-a, Fuel Adjustment Charge, where it states, "No public utility may levy a fuel adjustment charge unless it secures approval from the commission at a public hearing held at least 10 days prior to the first day of each month in which the charge is to be levied." Now that literally means that the PUC is by this law required to hold that hearing. Under the amendment you have just discussed with Sen. Rock, and I agree with Sen. Rock, it means that the utility companies would ask for that hearing. That is a significant difference, is it not?

Sen. SAGGIOTES: I would say that it is different, but I am sure that the PUC would exercise its duties and responsibilities so that it would hold a public hearing.

Sen. MONIER: Would you agree that under the bill as it originally stands, they would do it because they were told to do it, and it wouldn't be a matter as to whether they wanted to do it, or not? In short, one is mandatory and the other is optional?

Sen. SAGGIOTES: This is also different, this amendment, from the original, whereby the original bill necessitates a public hearing every single month.

Sen. MONIER: In section III of the original bill, which this amendment completely eliminates, it says, "In computing the fuel adjustment charge, no public utility may include any increase in fuel cost to the utility caused by an electric power outage," meaning their operational problems, "which requires the utility to purchase electric power from another utility." Now this is no longer a part of the bill if we adopt the amendment, is that not correct?

Sen. SAGGIOTES: That is correct, and I stated my reasons why because I didn't think that this was the right thing to be doing.

Sen. MONIER: Would you agree with me, then, that the recent thirty cent plus or minus addition to the fuel adjustment charge which was caused by operational breakdown, under this bill could not have been charged to the consumer?

Sen. SAGGIOTES: That is correct.

Sen. MONIER: Could I ask your agreement or disagreement with me that that is exactly why the bill was written, so that it won't happen again?

Sen. SAGGIOTES: I think one of the reasons why the bill was written besides some publicity was to do exactly what you are saying, and I can't understand the reasoning behind this because I am sure any businessman is certainly going to pass on the cost, and the consumer is going to pay somewhere in the end. Under a public utility that is regulated by the PUC, if they are unable to pass on the cost to the consumer, and they begin to show lower profits, and then their dividends to the stockholder begin to decrease, then I am sure that their expansion program will be stifled and the investor is going to be looking elsewhere to invest his money.

Sen. MONIER: Would you believe that they already have within the current statutes and laws a procedure whereby this can be recaptured through base rates? However, the difference between a base rate and fuel adjustment rate and the means by which they are assessed is very simple. One already requires a public hearing. Therefore, on a test year basis, the public utilities commission may require and does require a public hearing for base rate increases, and in base rate computations are such things as maintenance, etc. Are you trying to say that if they have an operational breakdown, that they will pass this on, and it is proper to do this through a fuel adjustment charge, without a public hearing? I am not saying that they won't recover it. We are saying that they have to recover it, however, through a base rate public hearing in order to have

that addition added to their test year. At the present time, they add it on to the fuel adjustment rate.

Sen. SAGGIOTES: No, I am not saying this. But at the public hearing either one or both of the sponsors of the bill were attempting to say this, that the Public Service Company of New Hampshire had done this, which is not true. After interrogation on my part, it was admitted and also substantiated by the auditing company that audited Public Service Company of New Hampshire at the request of the Public Utilities Commission they found that the Public Service Company had justly increased the fuel adjustment rate and had only used increases due to higher costs of fuel that the other utility companies had to charge, that they bought the power from, and nowhere did the auditing company find that Public Service Company of New Hampshire had included in their fuel adjustment charge any costs due to breakdown of maintenance and things of that nature. The only charges that they had included were the increase in cost of the fuel.

Sen. DOWNING: I didn't interpret the amendment as you explained it in response to another Senator's inquiry. The way I read the amendment is that if in fact a utility generating electricity which is to include a fuel adjustment charge in any monthly billing, then the commission will, in fact, hold a public hearing on that. That is what the amendment says to me. You have indicated in response to another Senator that the utility company itself would have to request a public hearing. Do I understand it correctly that, in fact, if they want to include it in the monthly billing that the Public Utility Commission will hold the public hearing?

Sen. SAGGIOTES: You might have misunderstood me, but I would read it the same as you do, that the Commission shall hold a public hearing. They have no choice. It is mandatory.

Sen. BOSSIE: I rise in opposition to the committee report which is ought to pass with amendment. I do not favor the amendment which is printed on page 5. This amendment was in fact drawn by the Public Service Company, and it is obviously done with them in mind. Apparently this has been dug out of some old bill that Sen. Jacobson and I sponsored last year, and apparently didn't pass then either. I favor the original bill. The purpose of the original bill is not to get the Public Service Company or any other utility. The purpose is to provide information to the customers who are screaming about the high rates. What is wrong with a public utility which is a state recognized and organized monopoly from giving information to consumers? There is just nothing wrong with it. Basically what it will do is to force the Public Service Company of New Hampshire and other utility providers to justify before the PUC the fuel adjustment charges. What this stems out of is apparently the breakdown at the Bow Plant a few months ago in which the Public Service Company of New Hampshire had to go out and buy power from the New England Power Pool, which is at a substantially higher cost than they themselves can manufacture the power. It is very interesting to read some of the comments of the local press about this. I refer specifically to an editorial that appeared in the Manchester Union Leader last week entitled, "Stupid and Outrageous," and which is signed by William Loeb. Now whether you agree with him or not on every issue is not important, but I think on this issue he is very specific and he understands what he is talking about. SB 44, paragraph II provides that no public utility may levy a fuel adjustment charge until it secures approval from the PUC at a public hearing held at least 10 days prior to the first day of each month in which it is to be charged. Now if you notice the amendment on page 5, that changes the onus. Under the amendment, the PUC within ten days must give an approval or disapproval. Under the original bill it does not do that. I think that is very interesting. Mostly because it guts the bill. Of course the Public Service Company can hire a lobbyist to be up here almost every day. That is part of the American way and part of the way here in New Hampshire for years. At the same time, the consumers, the ones that are backing our constituency, the housewives who have to pay \$1.54 extra per 100 kilowatt hours just have no voice unless we express it for them. Their voice says, if this is justified, then let it be. All we want is a proper hearing. I ask you to turn down the amendment, to vote in the original bill.

Sen. JACOBSON: As I understand it, the fuel adjustment charge was the highest for the month of March that it has ever been?

Sen. BOSSIE: Yes, \$1.54.

Sen. JACOBSON: There is something that confuses me. I have been noticing most recently that the price of gasoline has gone down. In fact it has gone down in some areas two or three cents a gallon within the last ten days. Has the per barrel price of the oil risen so high that they have had to add this extra charge?

Sen. BOSSIE: We have not understood that to be the case. Apparently this New

England Power Pool has higher costs. They probably allocate it to labor costs or whatever. Basically it is higher, and this is what the extra power in New Hampshire ordinarily is done with anyway. They sell it to outsiders for extra money. That is why they make a good profit. So now we don't know if they have justified that. We don't ask them to justify it to a legislative committee. All we want is to justify it to the Public Utilities Commission who have rate experts who understand it. We just want to legislate that the consumer has a right to be heard. That is all we want.

Sen. JACOBSON: I believe I read somewhere that the Public Service Company said that the price of oil has risen. I have not been able to find that. Was there any testimony given with respect to that?

Sen. BOSSIE: I don't recall hearing that, but I may have been out of the room at the time.

Sen. BRADLEY: I think I agree with you with respect to section II of the original bill, that there ought to be a hearing and that they ought to justify the fuel adjustment charge. But I have difficulty trying to justify in my mind section III, which says that even if they can justify this increase by reason of having to buy out-of-state power, they can't have the increase. How do you square that?

Sen. BOSSIE: I think it is very interesting that the fuel adjustment charge has been used in this case to absorb the cost of a breakdown. That is exactly what has been done. I think, if anything, that we should pass, we should put in paragraph III and leave the rest out. That is the most significant thing. As the editorial points out, if the typewriter in your law office breaks down, you don't charge your clients a dollar more. It is just ridiculous. In this case, I think the sponsors are being specific. They are entitled as a matter of law to receive a proper return for their investment. But at the same time we are the public. There is nobody else that we can buy our utility power from. So I think what is fair is fair. That is all we ask.

Sen. CLAVEAU: Is it not true that the additional cost on the fuel adjustment charge is for the cost of electricity, not to write off the expense of the breakdown?

Sen. BOSSIE: Regarding the origin of that, either in 1971 or 1972, the Public Service Company apparently petitioned the PUC for permission to put on a fuel adjustment charge. This was denied. They appealed it to the Supreme Court, and the Supreme Court stated in their decision that they have a right to do it, so that is what has been happening ever since. The Legislature really hasn't spoken on that.

Sen. CLAVEAU: I wanted to know whether this is only for the additional fuel purchased and not to write off the cost of the breakdown. Supposedly that is it, but in fact we know it is otherwise. It is for the additional cost of fuel from the base period, which apparently was in 1971 or 1972. So that is what it is based upon, what the cost of fuel was at that time.

Sen. DOWNING: Didn't Sen. Saggiotes indicate earlier that the auditor of the Public Service Company indicated that there was no cost reflected in that surcharge except what was strictly used for fuel, that there weren't any other charges included in there?

Sen. BOSSIE: It is my understanding from everything that has been said that the additional cost to buy energy from the New England Power Pool was allocated to the consumer.

Sen. DOWNING: Are you challenging the veracity of the statement that the Senator made here relative to the audit of the company and its findings?

Sen. BOSSIE: I don't know the veracity of it, and Sen. Saggiotes is a very truthful man, but I believe it is other than that, that perhaps they may have not charged in the cost of the machinery itself, but there is no doubt in my mind that they charged in the cost for the extra energy purchased from NEPCO.

Sen. DOWNING: You seem to find some problem with the amendment stating that after a hearing by the PUC they would render a decision within ten days. What is your problem with that?

Sen. BOSSIE: I don't know of many other statutes requiring any commission to do anything within ten days. This is another thing for private industry and is to help them and nobody else. If it takes them a month to do a rate survey, why shouldn't they have a month? It is just not a question of listening to some testimony today and making up your mind. Most of these rates are based upon data that are not easily comprehensible.

Sen. SAGGIOTES: Weren't you at the hearing when, I believe, an attorney from the PUC office commented on the findings of this audit?

Sen. BOSSIE: I didn't hear it if it occurred while I was in the room.

Sen. SAGGIOTES: Then apparently you don't recall that he testified and stated that the audit showed that PSC of New Hampshire in regard to the breakdown in Bow only

charged for the additional cost of fuel and not for any of the other expenses in the breakdown?

Sen. BOSSIE: That is exactly what I am saying. They didn't charge for the machinery itself. They charged the customers for the electricity purchased from NEPCO.

Sen. CLAVEAU: From the testimony of PUC at the hearing, did they say that they needed more than ten days to give a report?

Sen. BOSSIE: I don't recall what it was. You may know. I would suspect that the PUC should have as much time as they need.

Sen. ROCK: I would like to go back to the crux of the issue in the fuel adjustment increase that precipitated **SB 44** as I understand it. There are two coal burning generators at Bow, New Hampshire. They are constructed to operate in tandem or individually. The most important thing that is not being talked about this morning is that they were constructed and introduced into the state of New Hampshire with a great deal of hoopla that they were going to burn coal. The cost of burning coal is considerably less than the cost of burning oil, although these prices have narrowed somewhat in their differential over the past year. It is still much more economical for the company to burn coal than it is to burn oil whenever it is available. It is even less expensive to burn atomic energy. Therefore, while the fuel adjustment charge in neighboring Maine last month was 32 cents, yours was \$1.54. The fuel adjustment charge in Maine was 32 cents because they were burning lower cost fuels. They were burning atomic energy, and they were using hydropower to whatever extent it was available. I support the construction of a nuclear power plant in New Hampshire for two reasons. We have to face the reality that the day of the brownout is coming. Secondly we have to stop paying through the nose to Arab sheiks for high priced oil. It disturbs me even more to learn that the oil from the Alaskan slopes that we were told is going to be partly an answer to our energy problem is going to be so plentiful that it will provide all of the west coastal oil needed, and then they have decided that they will sell that to Japan, whatever overflow they have. I refer you to the WALL STREET JOURNAL article on that subject.

When the Bow generating plant malfunctioned, as can happen with any manmade machinery, it happened that they were both down at the same time. I do not know the cause of the malfunction, but I know it was not the first malfunction. This has happened previously. When it breaks down, it has to be fixed. When it broke down most recently, the company had to go out and purchase higher priced electricity generated with Arabian oil and passed on the higher cost of that fuel to you in the form of a fuel adjustment charge. You paid the higher cost because the machinery was broken down. One of the thrusts of **SB 44** is to keep the company on its toes and have the light of day shine on these malfunctions so that perhaps we can have less of them, or at least have the people of the state know why that fuel adjustment charge was passed on. The material contained in **SB 44** is not unusual or unique. We are not the first state to consider fuel adjustment charge public hearings. The state of Rhode Island Public Utilities Commission has ruled that there will be public hearings quarterly on the fuel adjustment charges in that state. The state of Florida has already taken the step to have monthly public hearings when the fuel adjustment charges are assessed.

I stand here in strong opposition to the amendment to **SB 44**. In a recent statement from Public Service Company Mr. Tallman apparently is saying that he agrees that it might do the company some good and certainly couldn't hurt if the public knew why, in detail, a fuel adjustment charge was being levied for that month. It says, "If it takes a public hearing each and every month to get the point across, we would be happy to participate." The second part of the statement says, "despite the fact that the hearings would add to our cost of doing business and ultimately, the cost of electricity." On the same page it says, "we have absolutely nothing to conceal and welcome any and all opportunities to again have the administration of the fuel adjustment charge scrutinized in depth by anyone at any time despite the fact that it has been reviewed and audited in the past and is currently being discussed in public hearings before the Public Utilities Commission." They are saying in the release that all the information is on hand, they would be happy to have anyone at any time look at the information, and yet they try again to scare this legislative body into not passing **SB 44** by saying the hearings would add to the cost of doing business and ultimately the cost of electricity. I submit to the Senate that if all of this information is on hand, and they welcome anyone to see it at any time, in any depth, that it will in fact not add to the cost of doing business, and Mr. Tallman has indicated he would welcome the hearings as recommended in **SB 44**.

I must oppose the amendment proposed by Donald Sinville, the lobbyist for the Public Service Company. I support the minority report that the bill ought to pass as it

was originally introduced. I speak for the people who have told me of their problems in today's economy and as a businessman who knows that if this is a problem and the breakdowns do cost the company money, then this should be a part of their rate increase filing, and not buried under the fuel adjustment charge.

Sen. BRADLEY: I am still troubled with section III of the bill. If we pass the bill as it was originally drafted, does that mean that the electric utilities could never make up the extra cost of an outage by any method, or are you just saying that they can't do it through a fuel adjustment charge?

Sen. ROCK: Having sat through many rate hearings of the Public Utilities Commission, the way that they would have to recoup the losses caused by mechanical breakdowns, which in my opinion are necessary costs to operations to continue to do business, the company has the right to petition for rate increases if it isn't making the proper rate of return that is guaranteed by law. This company has a statute that says its stockholders are guaranteed a fair rate of return. As a matter of fact, if any of you have talked to your brokers lately, you will find one of the stocks they are touting as being one of the best is Public Service Company of New Hampshire. Our Public Utilities Commission has the right by statute to allow them to earn, they must allow them to earn this fair rate of return, and if the company should not feel that the fair rate or the rate being approved by the Public Utilities Commission is fair, their recourse is directly to the Supreme Court.

Sen. CLAVEAU: You stated in one of your statements that the fuel adjustment charge was quite a complex problem, and that a busy PUC, understaffed, could not look into it. How do you propose to accomplish this by a public hearing?

Sen. ROCK: I was quoting from other states when I said many public utilities commissions find themselves understaffed and unable to look into the complex situations that fuel adjustment clauses present. The Public Utilities Commission did not oppose this legislation, and I don't think there is anything in here that they could not handle. The PUC did not favor it either; they took no position.

Sen. MONIER: Sen. Rock has adequately explained our position on this bill. The crux of this bill is relatively simple. Two little items from President Tallman's letter to Publisher Loeb, I would like to quote. "It seems reasonable to expect the consumer to accept the temporary added cost of replacement power when a single large generating unit is taken out of service under reasonable circumstances." I disagree. I do not think it is proper for the consumer to accept that charge, particularly when it is passed through in a fuel adjustment charge on which he has nothing to say. I don't think it is fair for him to accept that adjustment not (1) because the Public Service Company should not recover the cost of that repair but (2) should not recover it this way. There is an established statute for public hearings on an average year, a test year, in which the Public Service Company can ask for a base rate electric rate increase or decrease. If they have problems with maintenance, which every company has, then the proper place to recover those kinds of costs or higher operational costs than perhaps anticipated should be through a regular base rate increase which requires a public hearing.

The point I am arguing is that in this high economic cost factor of fuel and other matters, there is no question that the Public Service Company has a higher cost of operation. I do agree that a fuel adjustment charge should be allowed for them, meaning for the fuel that is brought to their plant. If their coal goes up, they should be allowed a fuel adjustment rate. I still think it would be better if it was in a public hearing. But when they, through their own operational inequity or inefficiency have a major breakdown, the costs of those kinds of things, those kinds of costs should be cranked in to their test years for a higher base rate, which requires a full public hearing. Therefore section III, which Sen. Bradley asked the pertinent question about, can be recovered. But management problems should not make the consumer pay on a monthly basis for increased fuel costs because they have to purchase power. They should have that built in to their test rate every year. It has already been stated by Mr. Tallman that that is exactly what he did. This amendment guts the whole purpose of the bill, and I stand very much against it.

Sen. DOWNING: I rise in support of the committee report with the amendment. I am concerned with section III of the original bill which the minority would ask you to accept. Politicians and some news media are trying to appeal to the emotions of the people because they have high electric bills. They are trying to make it appear that they are doing something. It is just moving the money from one point to another point, and eventually the consumer has to pay it. You can say, for public relations, don't put out the real cost. That is what that editorial says, it says hide it; bring it out some other way; kid the public. The public has had enough of being kidded. People want to know what

the cost is and let's pay it as we go along. If you have any sense of fiscal responsibility, you know that you have to pay your bills as you go along. You don't build them up until a year or two later and then start paying for it. Pay for it as it happens. The more flexibility we have relative to this area, the better off we are. You are going to have to pay for the power if you want it available to you. I just don't feel we should be playing to the emotions of people. There isn't anything that is going to cure the high electric bills. They are going to remain high for a while until we find some substitutes for the power that is creating it. This is a hard problem and needs to be looked at. I recognize the emotion and the public opinion involved may not support the hard stand you have to take, but I implore you to be reasonable and truthful with yourself and with the people.

Sen. PRESTON: I didn't intend to speak on this bill, but I would like to explain my vote in advance. I am not going to pretend to play any political shell game; I am not succumbing to any editorial that I haven't read, and with all due respect to my colleague, I have never cast a vote for the sake of political patronage or numbers. If this does anything to spotlight on the problem that bothers all of us—I never pretend to understand why Kittery, Maine pays less on fuel adjustment charges than I do—but I take offense that my vote would be cast in that light, and I am going to vote on the basis of just opening up the door to see what can be done about it.

Sen. DOWNING: Do you realize that the committee report as offered to us would require the Public Utilities Commission to hold a public hearing on any increase in the fuel surcharge and to render a decision within ten days as to whether they approve or disapprove of it?

Sen. PRESTON: Yes.

Sen. S. SMITH: I was not going to rise on this bill, either. But I am concerned by what is being said, and I am concerned about the total picture of what is going on not only in this state, but in this country. We are now, on an international level, subject to high oil prices. Public Service Company of N. H. has been doing a good job by having the Bow plant powered by coal. This has given us a relatively cheap rate. I have constituents who come to me, too, and who say that they don't understand because gasoline hasn't gone up; if anything, it has gone down. The price of their oil bill has not gone up. But they don't take the time to realize that the Public Service Company uses about four different types of power or sources of power, and it happened that the Bow plant was broken down, so that they had to buy electricity from oil powered utilities. To say that you cannot purchase, as this bill does, fuel from other out-of-state companies in time of emergency means that we are negating our whole concept of a bill which we passed during the regular session relative to the Power Pool. It means that this power which supposedly, and I think will, give cheaper fuel, will not be utilized. What it will mean is that Public Service Company will have to build more stand-by power plants, build them so that in case of breakdown, they can utilize those plants rather than buying it for a short time from out-of-state, and by building plants your charge for electricity is going to be a great deal higher. In addition, this bill hits Public Company of N. H., which serves 70% of the people in the state of New Hampshire, but has absolutely no effect on those companies which do not produce electricity, so that the people who are buying from companies such as New Hampshire Electric Coop. and from Connecticut Power, and from other companies, those people will still be paying the charge and will have no recourse. In addition, if you pass this on to the company, the long range goals are being put in jeopardy. The long-range goals which the Public Service Company has been fighting for years is to have an atomic power plant. If the earnings on the common stock are reduced and the investing market sees that the earnings for the company are going down at a time when Public Service Company is trying to raise through preferred stock and the sale of bonds approximately \$800 million, we are not going to have an atomic energy plant, which is the ultimate goal, which will give us a lower cost. I think the amendment which the committee brought forth answers the questions, gives it a public airing, which is what is needed. In the long range benefit to the people of this state I think that the bill as originally introduced will do more damage than the amendment.

Sen. BRADLEY: Why isn't it reasonable and appropriate to require the utilities to recoup this kind of loss as the result of outage in their base rate, rather than through the fuel adjustment clause?

Sen. S. SMITH: I think Sen. Downing answered that question very well. You pay as you go. There are going to be fluctuations. I think it is a difficult thing in the long haul to put into a base rate, which when you once put it in is very difficult for the public to reduce. It is a temporary charge; it is not a base, fixed-in charge. The cost of purchasing

power during a breakdown is a legitimate charge, and one which, though unfortunate, but in the long haul the people of New Hampshire are benefiting from.

Sen. BRADLEY: Isn't the fuel adjustment charge a relatively recent thing?

Sen. S. SMITH: That is right.

Sen. BRADLEY: I assume that outages and breakdowns have been going on a long time. I assume there had to be some reflection of that historically in the base rate. What I am trying to get straight is why that kind of cost shouldn't properly be recouped in the base rate, rather than in a more immediate fuel adjustment charge?

Sen. S. SMITH: We have had base rates for many, many years. Historically they have continued to go up and up and up. I think that we at present are in a period of terrific adjustment within this whole country in regard to the cost of various types of fuel. If you put that fuel into the base charge, you are never going to get it out again. Whereas if it is met monthly on the actual cost, then you are going to eventually have this fuel adjustment rate dropped. Secondly, when you establish a base rate on something, you are including in that a percentage of profit, so there is going to be an added percent guaranteed of more and more profit for the company whereas the fuel adjustment charge is a non-profit item.

Sen. MONIER: You are aware of the fact that nothing in this bill would put the fuel adjustment rate into or any part of fuel costs into a base rate structure?

Sen. S. SMITH: That is true, but this bill would not have any affect on companies which do not produce electricity, but only sell it.

Sen. MONIER: You say that none of these other companies like the REA etc., have you verified with them, since they purchase power from the Public Service Company, that their rates would stay up, no matter what happens to this fuel adjustment charge? If a company is purchasing power, such as the Plymouth Coop. is purchasing power from the Public Service Company, and they continue to charge them at a different rate than what their coal was costing them, you don't believe this would come up at a rate hearing in an argument?

Sen. S. SMITH: I don't think it would, because I think it is under federal jurisdiction.

Sen. MONIER: Just for the record, Mr. Pillsbury thinks it would. I think that the Public Service Company's fuel adjustment rate, about a year ago, was the only one that the Federal Power Commission ever turned down?

Sen. S. SMITH: That may be.

Sen. Claveau moved **SB 44** be sent to Energy and Consumer Affairs for interim study.

Sen. CLAVEAU: I agree with Sen. Downing and Sen. Rock; this is a very complicated matter, this fuel adjustment charge. I am on the committee to reconstruct the PUC. That bill was motivated by the fuel surcharge and the electricity costs, etc. We have agreed in committee to allow the hearing to encompass all that area. I think we should wait until we have come up with findings on that committee. This bill will accomplish absolutely nothing. It is a great chance for people to grandstand, but it does nothing for the people.

Sen. BOSSIE: You recall that during the past two or three years we have had a substantial number of hearings, our committee has, regarding the problems confronted by **SB 44**. Are you prepared, in line with your motion, to raise an appropriation so that our committee will be able to hire the expert advice that we will need in order to come to a sound conclusion, one not politically inclined?

Sen. CLAVEAU: If need be, I would.

Sen. DOWNING: I rise in opposition to the pending motion to refer this matter to interim study. We already have the electrical energy review commission, which is studying this area. You have the standing committee of the Senate, and there is a committee headed up by Sen. Rock, as well, studying the PUC and its practices. I think there is enough study being done now and we don't need to add to that. This area is already part of the study. I also feel that people have indicated a strong state of distress over the surcharge, and I feel it has reached a time where it should have a hearing before these things are just automatically increased. I think we can accomplish that by adopting the committee report with the amendment. It is the original bill that I had a great deal of difficulty with.

The amended version offered by the committee, I think, will accomplish what the public wants, and be in the best interests of all concerned. I urge defeat of this motion and adoption of the majority report.

Sen. SAGGIOTES: I rise in opposition to the pending motion, and in favor of the majority report of the committee. I am concerned about the rates that are charged. I think all of us that are debating this bill do agree on one thing as is proposed in the

amendment that is offered. We, in the amendment, support the public hearings. The only area that we differ is in part III of the bill where it seems to me it is rather hazy as to where the increase in the fuel cost due to breakdown should be charged off to. I urge you to support the majority report.

Sen. BOSSIE: Is it not true that under your amendment, or the Sinville amendment, that the 30 percent of the customers that get their utilities from other than the Public Service Company are not entitled to a hearing on the fuel adjustment charge because the electricity is not generated in New Hampshire?

Sen. SAGGIOTES: I am not sure.

Sen. Claveau withdrew his motion.

Sen. BROWN: I rise in opposition to the amendment. No matter where I go I continually hear complaints about the fuel adjustment charge. I agree with Sen. Downing that people do not like to be fooled. In this case, I think people believe they are being fooled. Because of this, I can see nothing wrong with the PUC holding the hearings as stated within the bill. I think it would enlighten the people, and I think they would be more understanding of why these fuel adjustment charges are there. It would also be good public relations for the electric companies.

Sen. ROCK: Sen. Bossie, how many members of your committee were present and voting when you held your executive session on this bill?

Sen. BOSSIE: Three members, two of whom voted to put on this amendment.

Sen. ROCK: Then the majority, at best, was a very slim one?

Sen. BOSSIE: If the whole committee had been there, it probably would have changed, knowing their past record, but I don't know.

Sen. Blaisdell moved the previous question.

Adopted.

Roll call vote requested by Sen. Monier, seconded by Sen. Blaisdell.

The following senators voted yea: Senators Stephen W. Smith, Saggiotes, Claveau and Downing.

The following senators voted nay: Senators Poulsen, Bradley, Bergeron, Monier, Blaisdell, Rock, McLaughlin, Roger A. Smith, Sanborn, Provost, Brown, Bossie, Preston and Foley.

Sen. Ferdinando abstained under Rule 42. Result: yeas 4, nays 14. Amendment lost.

Minority report adopted. Ordered to third reading.

Senate recessed at 1:00 p.m.

Out of recess at 2:15 p.m.

TAKEN FROM THE TABLE

Sen. Preston moved that **SB 18** be taken from the table.

SB 18, permitting the removal of contents of a safety deposit box by a surviving joint tenant without approval of the department of revenue administration.

Adopted.

Sen. Preston moved the adoption of an amendment.

Sen. PRESTON: The purpose of this bill was to permit the removal of the contents of a safe deposit box by surviving joint tenants without the approval of the Department of Revenue Administration. Under the current laws, if you and your wife had a safe deposit box, and you and she were customarily going in and out of that box for whatever reason, daily, monthly or weekly, and if one member passed away, bankers have staff who read obituaries every morning and they note that Mrs. Jones has passed away, and they put a red flag on the box and lock it, only permitting the will to be removed. Filing of this bill was really prompted by a widow who called and who was unable to get an insurance policy out and some veterans' papers. We have discussed this at the hearing; there was total support for the bill by the Department of Revenue Administration. They wanted to reword the second amendment, part two of this bill, which takes care of the real problem, the Mom and Pop operation that we were concerned with. It seems that the current law was written in the 1920's, and it was explained at the hearing that the New Hampshireites had cattle, land and money. The land nor the cattle could be put in safe deposit boxes, but the money could be hidden there. There are today, with changes in technology and legislation, modern methods of reporting incomes, etc. and to prevent one or the other to enter a safe deposit box is really operating on a premise of distrust. Neighboring states of Massachusetts and Vermont do not do it. This simply corrects that, and allows those people who ordinarily have access to that box, the right to go in, whereas now the card you sign you attest to the fact that all tenants are living.

Sen. POULSEN: I rise in support of the bill as amended. As Sen. Preston stated, this takes care of almost all the cases. We had good testimony. The big problem has been with a couple who are joint tenants and one would be locked out of the box, and they would lose the privacy of the box through death. This way you don't have that. There is no problem with couples. The problem that remains is to deputies, and second-step relations, and that is a very small percentage. This is a good bill.

Amendment to SB 18

Amend RSA 86:72 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

86:72 Deposit Boxes.

I. No person or corporation engaged in the business of renting or furnishing safety deposit boxes to its customers or others, for the safekeeping of securities or other papers may, except as provided in paragraph II, without the consent in writing of the department of revenue administration, permit any person, except an executor or administrator duly appointed and qualified in this state, to remove any of the contents of any such safety deposit box after knowledge of the decease of any person having the right of access to the same, whether such deceased person was a resident of this state or not, except the will, if any, of the deceased which may be delivered to the executor named therein.

II. If a safety deposit box stands in the name of the lessee with an appointed deputy or in the joint names of 2 or more persons and the relationship of the lessee to the deputy of the relationship of the joint tenants is such that they are exempt from the legacy and succession tax, as defined in RSA 86:6, II, the written consent of the department of revenue administration shall not be required before the content of the safety deposit box may be removed by the survivor.

Amend RSA 86:78 as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

86:78 Penalty. Whoever violates the provisions of RSA 86:72, 86:73, 86:74, 86:75, 86:76, or 86:77 shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and, in addition thereto, shall be liable for the amount of the taxes, interest and penalties due under this chapter upon the passing or transfer of said securities, deposits or other property; and said penalties and liabilities may be enforced in an action brought by the department of revenue administration. In cases of failure to comply with RSA 86:72, 86:73 and 86:76 involving the delivery of transfer of joint accounts or deposits by any such trust company, bank or other similar institution, the said penalty shall not apply and the other liability of such institutions under this section shall not exceed the amount of the taxes and interest due under this chapter upon the passing or transfer of such joint accounts or deposits; and no such institution shall be deemed to have violated said sections if it shall have withheld from transfer, as provided in RSA 86:76, a portion of such joint account or deposit at least equal to the amount of the tax assessed thereon hereunder.

Amendment adopted. Ordered to third reading.

COMMITTEE REPORTS

SB 15, continuing the solid waste committee. Ought to pass. Sen. Preston for the Committee on Environmental Control.

Sen. PRESTON: This bill simply extends the final reporting date until July 1, 1977 for the solid waste disposal committee. It calls for no new funds whatsoever, but just allows them to proceed another year.

Adopted. Ordered to third reading.

SB 43, revising the economic poisons law. Ought to pass. Sen. Foley for the Committee on Environmental Control.

Sen. FOLEY: This Senate bill looks formidable and bulky; however, in excellent testimony to the committee by our state Commissioner of Agriculture, Senator Townsend, we find this bill is one which changes wording of our state economic poison law to coincide with the Federal Insecticide, Fumicide and Rodenticide Act as amended. Commissioner Townsend went over each paragraph, showing word changes on each page, so actually it is a housekeeping bill. The bill redefines terms, allows the Commissioner to promulgate all regulations, authorizes the Commissioner to register pesticides to meet local needs or refuse to register if they do not meet the standards. The committee voted unanimously for its passage.

Adopted. Ordered to third reading.

SB 7, permitting any state agency to return to the sender a check, draft or money

order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met. Ought to pass. Sen. Monier for the Committee on Executive Departments, Municipal & County Government.

Sen. MONIER: As the Clerk has read to you, we did not feel this was an emergency bill, but there was some testimony that it might possibly save us some money. There was also testimony that it seems to me that for years we have had a very disruptive system of doing this, but supposedly this will take care of it, so the committee voted yes on it.

Adopted. Ordered to third reading.

SB 11, redefining the term "master electrician" as used in RSA 319-C. Ought to pass with amendment. Sen. Monier for the Majority. Ought to pass. Sen. Preston for the Minority. (Executive Departments, Municipal and County Government.)

Sen. MONIER: The consensus of the committee was that the amendment had merit, but there were some questions about one or two items, and perhaps it would be more appropriate to allow Sen. Sanborn to explain this.

Sen. SANBORN: Basically, the intent of this amendment is to strengthen the bill as presented by Sen. Preston, in that the original bill as presented did not specify any length of time or qualifications for a journeyman electrician or a master electrician. The amendment does say that a person who becomes a journeyman electrician is required to either spend time in a voc-tech college in the state of New Hampshire or other approved college plus one year of practical experience as an apprentice with an electrician, either a master or a journeyman electrician, so that he gains the practical experience in the field of electricity. I would say that on my last visit to the Manchester Vocational School, the boys there believed that they did need one year of practical experience before they could actually go into the trade. Then for a master electrician there was no definition of any other time requirements for a master's license, over and above that that was required for a journeyman. So the amendment requires seven years as a journeyman electrician before they can apply for a masters examination. The masters examination further specifies under the amendment that it will be no less than the requirements of a third class, second class, first class petty officer in the Construction Battalions of the CB's.

Sen. SAGGIOTES: In the original bill is there anything in it that you object to?

Sen. SANBORN: Basically no, except that it did not specify in my mind any requirements of a master over a journeyman or what a journeyman should know, other than it just requires an examination.

Sen. SAGGIOTES: Wouldn't you agree with me that probably the reason why the bill was introduced is because of the dual license problem that we have, and which is more or less considered an emergency measure? Where can you see in your amendment that great an emergency where we should act at the present time, where I for one don't understand the amendment whatsoever? I don't know what class one or class two petty officer ratings are. I don't know what the requirements are for an electrician in that category. Is this really an emergency to tack that onto the bill at the present time?

Sen. SANBORN: The original bill was put in as you state for the purpose of the present examining board who were requiring electricians to have two licenses, one for \$15.00 and one for \$25.00 to practice in the trade of electricity in this state, if they wanted to be called a master electrician and work at the trade. This, to many electricians throughout the state, is a bit of an emergency because it is confusing. However, insofar as this amendment, it only strengthens the law now on the books and defines a journeyman electrician and a master electrician, the difference between them. Right now there is no difference between a master and a journeyman electrician. I would say that the members of the commission have read over this amendment and agree with it that it should be part of the law.

Sen. PRESTON: I rise with reluctance to urge my colleagues to vote against the amendment as proposed by Senator Sanborn. Sen. Sanborn was one of those most responsible for the passage of this bill in the last session, and I knew of his concerns, and at the time we were trying to keep the bill as simple as possible. As Sen. Saggiotes indicated, I am sure we have all had calls from those who are applying for licenses that felt that they were being double-charged. As master electricians they were also required to get a journeyman's license. There is no question that we need more specific descriptions as urged by Sen. Sanborn, but I don't think this is the time. I think that if we amend this bill now, as suggested, that we are going to jeopardize its fate in the House. I think we could lose the whole bill as it went back and forth in both chambers like a ping-pong ball in the last session. I think that the board, would agree that the sponsors and others interested should sit down and have more clearly defined the

problems pointed out by Sen. Sanborn at this time, but to do it in the next session. I think most of the ire has been raised by those who are one-man operators, who do their own installations and under this current law were being forced to buy a journeyman's license because the wording in the law prohibited it as a master's license. With all due respect to Sen. Sanborn's very serious concern about making this a good bill, I urge you to defeat the amendment at this time, and let's keep it as simple as possible to correct this immediate problem.

Sen. POULSEN: I rise in support of what Sen. Preston has said with due trepidation to what Sen. Sanborn has said. The one basis that worries me of Sen. Sanborn's amendment is that these Navy tests consider transmission, distribution of high voltage, and I don't think there is one electrician in a thousand in New Hampshire today concerned with those things. Those are power company features. The ordinary electrician has nothing to do with voltage seldom over 550 volts. I think we are adding an unnecessary burden to the education of a master electrician by requiring his knowledge of these things. I think the bill as it is now is much better than to include these very strict regulations.

Sen. Brown moved that **SB 11** be laid on the table.

Division vote: Result: yeas 14, nays 2.

Motion adopted.

SB 30, amending the qualification requirements for the directors of the divisions of public health services, welfare and mental health within the department of health and welfare. Ought to pass. Sen. Bergeron for the Committee on Executive Departments, Municipal & County Government.

Sen. BERGERON: **SB 30** is basically a simple little bill, although some people don't think so. The only thing it does is makes alternate qualifications for the three directors that they shall have five years' experience in an executive position in their respective fields of public health, public administration and mental health. It does not in any way detract or remove any of the prior requirements. The feeling is that certain people should not be excluded because they don't have the new qualifications nor should others be excluded because they don't have some of the old qualifications. We heard considerable testimony on the bill. This bill was filed on behalf of Commissioner Whaland for the Health and Welfare Department, and it is his very, very strong feeling that the heads of the departments should be administrators. They have enough of a backlog of people to refer to for any and all specific problems. We had testimony from mental health people who are in favor of it. We had testimony from Stuart Howell, Acting Director of Mental Health, who was in favor of the bill. Evidently the problem is that the Commissioner of the Department of Health and Welfare is in need of directors for the divisions of Welfare and Public Health, and the Committee urges passage of **SB 30**.

Sen. BRADLEY: What is the rationale for this change?

Sen. BERGERON: The way the departments are now constructed, it was the Commissioner's feeling that this should be opened up and is more of an administrative position than it is the need for an M.D. or a psychiatrist. His strong feeling was that these should be business administrators heading up these divisions.

Sen. BOSSIE: I understand the state has had some problems filling these positions. Would this be a problem if this bill should pass with regard to salaries of the administrators being more than the doctors who are probably more qualified and more educated and deserve more money?

Sen. BERGERON: My understanding is that the directors' salaries are established. From that point on, as you go down the line, naturally you are going to have a differential.

Adopted. Ordered to third reading.

SB 8, amending the footnote to the current operating budget for the nurses registration board. Ought to pass as amended. Sen. Saggiotes for the Committee on Finance.

Sen. SAGGIOTES: **SB 8**, in its original form, removed a present footnote in the budget which restricts the Nurses Registration Board to expend only the appropriation that was appropriated in the budget. The footnote that is in the present law of the 1975 regular session was a footnote that removed a previous footnote that stated that the Nurses' Registration Board could go to Governor and Council in the event they required more funds. By approval of Governor and Council they could expend whatever they requested, money from the Nurses' Registration Board fund, which is a special fund. Apparently it was the thinking of certain people in the Senate Finance Committee during the regular session that that footnote be deleted so that the appropri-

ation that they asked for be granted and they would have to stick within that appropriation.

At the public hearing it was stated by the executive secretary of the Nurses' Board that they were in need of additional funds due to the increased workload that they have in examinations that they give for nurses. The funds that they asked for were for current expenses, other personal services, travel, for a total of \$3,150. It was the opinion of the majority of the Finance Committee that rather than remove the footnote that they wanted to remove, it was better to grant the amount of money that was required in the sum of \$3,150.

Amendment to SB 8

Amend the title of the bill by striking out same and inserting in place thereof the following:

An Act
making a supplemental appropriation to
nurses registration board.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Appropriation. In addition to any other sums appropriated for the nurses registration board department of education, the sum of \$3,150 is hereby appropriated for the fiscal year 1976 to be expended as follow:

Fiscal 1976

Current expenses	\$2,150
Other personal services	700
Board members travel	300
Total	\$3,150

The sums appropriated shall be a charge against the nurses registration board income.

Amendment adopted. Ordered to third reading.

SB 19, making a supplemental appropriation for the bureau of markets in the department of agriculture. Ought to pass. Sen. Sanborn for the Committee on Finance.

Sen. SANBORN: Because of the increase in postage, the Market Bulletin can't be put out any longer, and all this does is appropriates \$17,895, which are in the funds received for the Market Bulletin from the various farmers and people throughout the state that request it.

Adopted. Ordered to third reading.

SB 24, amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to New Hampshire upon discharge from military service. Ought to pass with amendment. Sen. Sanborn for the Committee on Finance.

Sen. SANBORN: The amendment printed in today's Calendar is not exactly correct. During the last session, we passed the Vietnam bonus bill. The way the bill was written, unrealized by the committee and the veterans' organizations that went through it, was that anybody that entered the service as a resident of this state and had to come back here to the state to get his Vietnam bonus. This was not the original intent. It is not the way that any other state that has a Vietnam bonus operates. You must be a resident at the time you go into the service to obtain the bonus. There have been many cases where the veterans have applied for their bonus, but are living out of the state now, who were legal residences of the state when they went into the service, and they have been turned down because of this one little paragraph that they had to come back to the state to retain their residence here before they could collect. This is the reason for the bill. There are less than 300 applications for the Vietnam bonus that have been turned down because of this one error in the bill.

Sen. BOSSIE: I have had a number of calls from those who have served in the Army National Guard during the period of the Vietnam Conflict. I know there has been a decision made as to whether they can collect the bonus. Could you advise me as to that?

Sen. SANBORN: Those that were in the National Guard at the time of the Vietnam Conflict are not eligible for the bonus unless their unit of the Guards was nationalized.

Amendment to SB 24

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Eligibility Requirements for Bonus. Amend 1975, 478:1 by striking out said section and inserting in place thereof the following:

478:1 Qualifications for Bonus. Each person who actively served for a total period of 90 days or more in any capacity as a member of the armed forces of the United States between August 5, 1964 and August 15, 1973 or who served in the Vietnam area at any time between July 1, 1958 and August 5, 1964 and earned the Vietnam service medal or

the armed forces expeditionary medal; and who was discharged, released or has a certificate of service therefrom, under honorable conditions, or who is missing in action; and who at the time he entered such active military service, if applicable, was a bona fide resident of New Hampshire shall be entitled to the benefits of this act.

Amendment adopted. Ordered to third reading.

SB 27, making a supplemental appropriation to the bank commissioner. Ought to pass with amendment. Sen. Roger Smith for the Committee on Finance.

Sen. R. SMITH: **SB 27** makes a supplemental appropriation to the Office of the Bank Commissioner to the tune of about \$11,000. This is no charge upon the general fund, as the activities of the Bank Commissioner are charged against the banks. It also makes an adjustment in the budget of the Barbers' and Hairdressers' Board for about \$1,700. This will come out of the fees that are paid for licenses and registrations by the barbers and hairdressers. The bill also provides an additional attorney in the office of the public defender for Merrimack County to help handle the severe overload in that office.

Amendment to **SB 27**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making a supplemental appropriation to the
bank commission, increasing the appropriation for
the public defender system in Merrimack county and
making a supplemental appropriation to
the barbers' board.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. In addition to any other sums appropriated, the sum of \$11,000 for the fiscal year 1976 and \$15,000 for fiscal year 1977, is hereby appropriated to the bank commission to be expended as follows:

	<i>Fiscal 1976</i>	<i>Fiscal 1977</i>
Current Expenses	\$ 2,500	
Travel In-State	8,500	\$15,000
	\$11,000	\$15,000
Estimated Source of Funds for Bank Commission:		
Bank Assessments	\$11,000	\$15,000
Total	\$11,000	5,000

2 Increasing Compensation. Amend 1973, 463:6 as amended by 1975, 505:44, II by striking out said section and inserting in place thereof the following:

463:6 Compensation. The compensation for legal services for indigent defendants represented by a public defender in Merrimack and Hillsborough counties shall be such sums as may be fixed by the before-mentioned contract, and said compensation shall be a charge upon the appropriation for the payment of counsel for indigent defendants in criminal cases for the biennium ending June 30, 1977, but said sums shall not exceed \$65,000 for the first fiscal year and \$93,000 for the second fiscal year.

3 Appropriation. In addition to any other sums appropriated for indigent defendants, administration and control, the sum of \$23,000 is hereby appropriated for the fiscal year 1977 to be expended for the public defender system in Merrimack county only.

4 Appropriation. In addition to any other sums appropriated, the sum of \$743 for the fiscal year ending June 30, 1976 and \$1,030 for fiscal year 1977, is hereby appropriated to the barbers' board to be expended as follows:

	<i>Fiscal 1976</i>	<i>Fiscal 1977</i>
Current expenses	\$ 152	\$ 364
Other personal services	315	240
In-state travel	276	426
	\$ 743	\$1,030
Estimated source of funds for Bar- bers' Board:		
General fund	\$ 743	\$1,030

5 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to third reading.

SB 41, permitting the placement of persons in need of supervision in certain shelter care facilities. Ought to pass. Sen. Bradley for the Committee on Judiciary.

Sen. BRADLEY: This bill is a slight amendment to **SB 18**, which passed in the regular session which caused a fair amount of concern as originally passed. One of the concerns with that bill is what I consider to be a misreading of the original statutes. The Attorney General has ruled that a judge cannot send a so-called status offender or a person in need of supervision to one of these shelter care facilities if that shelter-care facility also has in it children who have been adjudicated delinquents. That is, you can't mix the so-called criminals with the so-called status offenders, who have done nothing wrong except they need some supervision. That was not the intention of the bill. The main thrust of the bill was that you couldn't mix them at the Y.D.C. **SB 41** would change the situation around in the so-called shelter-care facilities. This would give the District Court Judge the discretion to commit or order both types to shelter-care facilities if the judge thought that was in the best interest of the child. This is a bill that I put in at the request of Dr. Morello of the Y.D.C. and others who felt that this was a needed adjustment to the law as we passed it last time.

Sen. MONIER: Would you advise me, where are these shelter-care facilities and where are we getting the money to pay for them?

Sen. BRADLEY: I think that everybody that I talked to who are involved believes that it is necessary for us to have more facilities and more alternatives. There is no question in my mind that the direction we have to go either on the state level or the local level or both is for the construction of more alternative facilities out in the communities. **SB 41** is not really forcing us one way or the other in terms of do we now have to build a building. **SB 41** probably makes it less imperative to build a facility right away.

Sen. MONIER: **SB 18** was unworkable because it wasn't funded for shelter-care. This is a common response that you get from the judges, juvenile police officers, and the rest of them. The real question is not **SB 41**, but **SB 18**. We started on a course without funding for shelter-care, and one way to correct that might be to eliminate it.

Sen. BRADLEY: I think that is erroneous.

Sen. MONIER: In here it states that a judge can put them in a foster home, a home otherwise authorized by law, a facility operated by licensed child welfare. Is it not true that he could have done that under the old law?

Sen. BRADLEY: Yes, the basic difference **SB 18** made in the law was that it said you can't mix the criminals and the kids who haven't done anything wrong except have a lousy set of parents who are not supervising them, you can't mix them in the YDC. That was the basic thrust of **SB 18**. The Attorney General said, although I don't think we intended it, also, you can't mix them out in these shelter-care facilities. I say that you ought to be able to mix them in the shelter-care facilities. That is consistent with federal guidelines, and that is what **SB 41** would take care of. You seem to want to go way back and start at the beginning and that seems a regressive position.

Sen. McLAUGHLIN: Is it not correct that at the present time, at Y.D.C. one building is not being utilized and there is a possibility that another building will not be utilized in the near future because the way **SB 18** was written that judges do not put children there who really should be sent there on many occasions?

Sen. BRADLEY: You probably know the situation with the buildings better than I do. There may be vacancies there. I would take exception to your statement that **SB 18** has prevented the courts from sending youth to the YDC who ought to be there. That is the point, that a child who is only a person in need of supervision, who has not done anything really wrong, should not be punished, should not be put into a place of coercive detention.

Sen. BOSSIE: At the hearing, is it not true that testimony was heard that as a result of **SB 18** a number of towns and cities and private groups are opening these foster care units to care for children, rather than sending them to the Industrial School for what probably would be termed as a mal-action on the part of the parents, rather than on the part of the children?

Sen. BRADLEY: That is correct.

Sen. Monier offered an amendment.

Sen. MONIER: Sen. Bradley is correct in the fact that I have drafted an amendment for considering a return to the original statutes prior to **SB 18**. I disagree with him that that is retrogressive. **SB 18** created a new category called people in need of supervision, to separate them from delinquents. There are two parts to this amendment that do not put back in what was there prior to **SB 18**. The first one is the area which we passed separately under the section dealing with alcohol and beverage possession. That is not back in the law with this amendment. The second part is the area that we repealed in a

separate act which was a habitual truancy. Neither one of these had anything to do with the category of PINS; therefore they are not reinstated back into the law. The rest of this amendment takes **SB 18** and revokes it, in a sense. This by the same token means that **SB 41** is not needed. The intent of **SB 18** was to create this new category of youth and make certain that they weren't mixed with habitual criminals and people who were there on criminal charges. The truth of the matter is that without shelter-care facilities, these people were not put anywhere, except in one or two cases that were highly publicized of being put in the State Hospital in the corridor and being shuffled back and forth. Unless we are in a position to recognize that within two years we are going to be building shelter-cares or supporting them through state grants of private non-profit organizations applying for money, etc. this trend ought to be discussed now and either stopped or developed as our priority. **SB 18** and **SB 41** are going to require us in the long run for this people in need of supervision category to once again build a whole series of different forms of shelters or patchwork as we have in **SB 41** and provide for them to go to foster homes or houses expressly approved by the court for this purpose or facilities operated by a licensed child welfare agency or any other facility designated by the court. I state that the courts have that authority under the original statute. They could have placed them in other areas. We haven't added anything with **SB 41**. All we are doing with this particular bill is correcting what the judges and police courts and people cannot handle now because there is no place to put them. I am saying that instead of discussing **SB 41**, which I would agree with, if I were going to have to go that way, that now is the time if this is that much of an emergency, to reinforce one way or the other that we really want to go this way at all. I do not. I strongly urge that we debate this down the line and decide whether we want to even retain this whole system at all. This amendment would strike that from the books.

Sen. Bossie moved that the bill with the proposed amendment be sent to the Judiciary Committee for interim study.

Sen. BOSSIE: I make this motion to send this to interim study because it is obvious from the comments of Sen. Monier that his ideas in the proposed amendment are more than substantial. Whether you like it or not, it would change the system from the way it was before we passed **SB 18**. I don't think it is a positive thing. Notwithstanding that, I am willing to at least study it and to bring something before the Legislature in the next session that would set forth exactly what the facts are as the committee sees them. I think that on such a substantial matter, it should not be passed in this sort of an amendment that has not had a hearing. I think it would be an excellent idea to report it to interim study.

Sen. McLAUGHLIN: I rise against the motion of Sen. Bossie. This amendment to **SB 41** is very timely. During the last session we were told **SB 18** clarified many of the problems that we had heard about previously. However, after it was passed and went into effect, it created more problems. Judges, lawyers, probation people and others who work with the youth have found problems because the youth can say that they will do what they want to, and you cannot do anything about it because you can't send me to the Industrial School. The state of Massachusetts pays tremendous fees to send youths to homes, and all they are doing is turning around and running away and coming to New Hampshire and committing crimes. I stand in strong support of the proposed amendment to **SB 41**.

Division Vote: yeas 8, nays 12.

Motion lost.

Sen. Preston moved the bill be recommitted to the Committee on Judiciary.

Sen. MONIER: I think Sen. Bradley recognizes that nobody tried to go by his committee with this, but with one day hearings. I rise against this motion. I opposed **SB 18** at the time. I may have at one time got confused on one vote. **SB 18** has not worked. I know what the road ahead for us is. Once we recommit it, then we line up all the people who are for it, and they have more time than those who are against it. But if it goes against me, then I will be very happy to remind the Judiciary Committee that I will see that the people are here, too. We have all heard the discussion on **SB 18**, and I think there is a majority of people in this room that have recognized what has happened to it, and what it has done. I think most of us have followed it enough to where we are not as interested in the legal aspect of it as we are in the fact of committing ourselves to a course I, for one, don't want to be committed to. There is not one single thing in **SB 41** which the judge and the jury or probation couldn't have done under the old law. I want to debate it now.

Division Vote: yeas 9, nays 10.

Motion lost.

Roll call requested by Sen. Bossie, seconded by Sen. Downing.

The following senators voted yea: Senators Stephen W. Smith, Bradley, Saggiotes, Blaisdell, Claveau, Roger A. Smith, Bossie, Downing, Preston and Foley.

The following senators voted nay: Senators Lamontagne, Poulsen, Gardner, Bergeron, Monier, Rock, McLaughlin, Ferdinando, Sanborn, Provost and Brown.

Result: yeas 10, nays 11. Motion lost.

Sen. Bradley moved to make **SB 41** a Special Order for Wednesday at 11:01.

Sen. BRADLEY: I have not had any opportunity to see Sen. Monier's amendment. He told me this morning he was coming in with one and about the general substance of it. I really feel that in fairness to the committee and to the whole Senate that we ought to at least take 24 hours to think about what we are doing.

Division Vote: yeas 12, nays 7.

Motion adopted.

RULES SUSPENSION

Sen. Roger Smith moved that the rules be so far suspended so as to allow HB 30, making a supplemental appropriation to the division of mental health and the division of welfare for medical assistance recipients who are 65 years or older and are patients of psychiatric institutions, be placed on second reading.

Sen. R. SMITH: This bill appropriates to the Division of Welfare funds necessary to provide an additional medical assistance service to eligible persons who are 65 or over and receiving institutional in-patient psychiatric care. In-patient psychiatric care is currently available to all patients in need of the service at the New Hampshire Hospital. No additional funds, other than a small appropriation for one clerical person will be required by the New Hampshire Hospital. Passage of HB 30 will allow the Division of Welfare to recover from federal sources 60 percent of the costs incurred in providing this service to eligible patients receiving in-patient psychiatric care at the New Hampshire Hospital or in other certified or accredited institutions. The net financial impact to the state's general fund will be a decrease in the demand for general fund dollars by \$2.3 million for the current biennium. In a nutshell, for an appropriation of approximately \$10,000, the state stands to be reimbursed by the federal government the sum of \$2 million. However, if the bill is not passed and signed into law by the Governor before midnight tomorrow night, the state stands to lose approximately \$400,000 for the first quarter of this year. The House expedited the bill, and informed the Senate leadership and the Governor's office, who are aware of this and are waiting for it.

Adopted.

Ordered to third reading.

Sen. Roger Smith moved that the rules be suspended so as to allow HB 30 to be placed on third reading, and final passage at the present time.

Adopted.

THIRD READING AND FINAL PASSAGE

HB 30, making a supplemental appropriation to the division of mental health and the division of welfare for medical assistance recipients who are 65 years or older and are patients of psychiatric institutions.

Adopted.

COMMITTEE REPORT

SB 42, relative to the dissemination of hard-core pornographic materials. Ought to pass. Sen. Foley for the Committee on Judiciary.

Sen. FOLEY: This bill concerns the dissemination of hard core pornographic material. We have never, since we have had an obscenity bill in this state, been able to get anybody in court and have anybody found guilty. There has always been some problem, some technicality. We have had cases which have come into court; and we have just lost out. So actually although this bill has been on the record, nobody has been found guilty. During the Christmas vacation in Portsmouth, there was a book called **SHOW ME** that has been on the stands all over the country. A boy was home for the Christmas holidays and got a part-time job in the local bookstore. He was paid a very minimum wage. The first person that came in asked him for the book **SHOW ME**. The boy had never heard of it and asked where it was, and it was right on the counter, and he sold it to the man, who promptly arrested him for selling obscene literature. This ended

his job at the store; he had to get a lawyer for the case, and actually all because the wrong person, as far as the law is concerned now, is the one who is tried. It shouldn't be the one who sells the book who should be tried; we should get to the base of it, to the publisher or whoever it is. The bill that I have put in is hopefully a step in the right direction to get the person who is actually putting out any obscene or pornographic literature. This is what the bill consists of. The House might end up sending this to interim study, but I think we should pass it.

Sen. PROVOST: How do you arrest a person if the book is published out-of-state?

Sen. FOLEY: That is what is wrong with the bill as it is now.

Sen. BERGERON: You mention the publisher. What does it do to the store owner?

Sen. FOLEY: The way the law would be written is that if you feel that something is obscene, the court will go in and get a copy of it, look it over, and if they decide it is obscene, they will tell the store owner that they feel that it is obscene, he will take it off the stands, and the person that they will go after is the publisher.

Sen. BERGERON: But under your bill, no charge will be brought against the store owner?

Sen. FOLEY: Not until he has been told that it is obscene.

Sen. BRADLEY: The approach of this bill, I think, will lead to successful prosecution and allow us to do something about pornography. With the existing law we are batting zero. We have never been able to get a conviction. This bill would change around the procedure, so that the first question that gets asked in court is, is the material obscene? If the people insist on it, they can have a jury trial on this issue. Once the decision is made about the material, whether it is a movie, book or whatever, that it is obscene, then an order is issued not to publish it, not to sell it. It is only then that a person would commit a crime, and the crime would be selling something which has been declared to be obscene. As it is now, you have to decide both those questions at once, and the two become mixed up, and apparently the jury feels sympathetic to the store owner and even though they might feel the material is obscene, they don't want to convict the poor store owner. So this is going to change around the process, and I believe will lead to successful management of the problem.

Sen. ROCK: Do I understand that the local jury would make the decision as to the obscenity of the material, rather than the judge?

Sen. BRADLEY: That is right. Somebody would be entitled to a jury trial; it is not mandatory. Otherwise the judge would decide.

Adopted. Ordered to third reading.

TAKEN FROM THE TABLE

Sen. Sanborn moved that **SB 11** be taken from the table.

SB 11, redefining the term "master electrician" as used in RSA 319-C.

Adopted.

The question is on the amendment of the majority report.

Sen. SANBORN: I would like to request that the members of the Senate at this time vote against the amendment and vote for the original bill.

Amendment lost.

The question is on the minority report as Ought to Pass.

Adopted. Ordered to third reading.

COMMITTEE REPORT

SB 13, relative to the confidentiality of dental review committee proceedings. Ought to pass. Sen. Claveau for the Committee on Judiciary.

Sen. CLAVEAU: This bill provides confidentiality of all proceedings, records, findings, and deliberations of the dental review committee. This gives the Dental Society the same privilege that the medical profession now has and as the chiropractors have. The reason for this is when the review committee reviews a complaint, this can be done so other doctors can testify freely with no one holding back, as long as they know this will not become public information. This does not stop anyone from proceeding into court if they wish to.

Adopted. Ordered to third reading.

SB 25, to permit any prospective juror who does not smoke to be discharged from serving as a juror unless non-smoking regulations are stipulated for the jury deliberation room. Inexpedient to Legislate. Sen. Claveau for the Committee on Judiciary.

Sen. CLAVEAU: The committee heard testimony from both sides. The committee felt that this would be an out to a lot of people who wouldn't want to serve on juries.

Sen. ROCK: I rise in opposition to the committee report. To my knowledge, there is only one place where an individual can be sequestered with those persons who choose to smoke, and to be forced to be in a room for a lengthy period of time with persons who are smoking. There are health reports which have shown that to be present and inhaling the smoke from those who do smoke, even if you are a non-smoker, can be detrimental to your health. I think that this is a way that we would allow those people who do not choose to smoke to be excused from being in the only place that I know of that they cannot leave voluntarily if they don't choose to inhale other people's smoke.

Sen. BOSSIE: I rise in support of the committee report that is inexpedient, notwithstanding the comments of Sen. Rock which, for health reasons, perhaps smoking is not a good idea. The fact remains that a lot of things, perhaps, are not the best. However, in serving in a jury system, as we do, a number of people will try anything in order to avoid jury duty. As we now, this is a duty that being a citizen carries with it, to have a jury of your peers to serve as a jury in any instance, either in a civil case or a criminal case. Although the idea of the bill is commendable, it is just not a workable thing. I ask that the Senate vote for the committee report.

Adopted.

SB 14, to allow a district court justice to establish the court clerk's salary. Ought to Pass with Amendment. Sen. Bradley for the Committee on Judiciary.

Sen. BRADLEY: Under the present law, the clerks of the district courts are paid 60 percent of the presiding justices salary. The presiding justice's salary is tied to the case load. We had a lot of testimony on this bill. The clerks presented a very persuasive case that their work load has increased more than or disproportionately to the increase in the work load of the courts. We passed several different kinds of laws, pleading to speeding charges by mail, and several others mentioned, that have increased the work loads of the clerks. A session or two ago we passed a special rule for Manchester District Court, which gave the judge the discretion to pay his clerk between 60 and 75 percent of his salary, so that there would be some incentive built in and so that a person could move up with some seniority and some experience. That seemed to work all right there. The clerks state-wide feel that they are entitled to that same kind of flexibility and same kind of procedure. That is what this bill proposes. The committee is convinced that that is a sound step.

Sen. ROCK: Do you see in this bill any problem where we are mandating to the local communities increases in expenses without providing them the wherewithal to come up with the money to pay for these expenses?

Sen. BRADLEY: I should have referred to the fact that there is an amendment which relates to this in part. All of the district courts, with the exception of one or two now and then, actually make a surplus. There is more money that comes in than goes out. This will mean slightly decreased revenues coming to the towns general funds from the courts. The magnitude of the increase is not terribly significant. In a very large district court, the clerk might earn around \$12,000, and if it went up to 75 percent, it would be up to \$15,000. The amendment we added is with respect to the effective date. Because we were concerned we might be affecting some present budgets, we made the effective date January 1, 1977, which seems to be putting it far enough ahead so that we wouldn't be disrupting current town budgets.

Sen. ROCK: If the town or district had need of this income for other reasons and was planning on it, so that it could keep its expenditures down, wouldn't we be in effect mandating an expenditure over which they would now have no control and which in effect would be costing them money?

Sen. BRADLEY: Yes, we would, if the income did not increase enough to offset it.

Sen. SAGGIOTES: Where does the surplus from the district courts go to?

Sen. BRADLEY: It goes back to the towns. I think we have some formula where it is shared with all the towns in the district. Basically it goes back to the town in which the district court is located.

Sen. BROWN: In my District, the Town of Plaistow has a district court and the town fathers have complained many times about the cost of maintaining that court, and I wonder, if we take more funds from them, they are going to be more unhappy.

Sen. BRADLEY: Plaistow is the only district court in the last compilation that lost money. So they do have a right to complain.

Sen. POULSEN: It seems to me that in our town budgets, each town is mandated by the state a certain sum that it must pay to the district court, depending on its share of the

population. It seems to me there is a figure for the judge and the clerk that appear on the town budget.

Sen. BRADLEY: That is right. There is an amount that the town pays the judge and the clerk and other things related to the court. But in every town except Plaistow the revenues produced by the court and not shared by the state and the other towns in the district, exceed those expenses.

Sen. PRESTON: In effect this is optional, that the judge may raise it from 60 to 75 percent?

Sen. BRADLEY: That is true, and I suppose if the judge should see that this is going to make him exceed his revenues, he might not do it. It does not mean that everybody is going to go immediately to 75 percent.

Sen. DOWNING: I rise in support of the committee report. The work load in the district courts is getting heavier and heavier, especially across the southern part of the state. There does seem to be an inequity that exists in that one district court does have permission now to go from 60 to 75 percent in setting salaries of the clerks, and the other courts are limited to the 60 percent. This merely equalizes it state wide. This is just permissible and does not indicate that it is going to cost any more money, but a judge that has the case load that warrants it and the clerk needs to be retained, then they have the ability to do it.

Sen. Brown moved that SB 14 be indefinitely postponed.

Sen. BROWN: The reason I do so is as was explained here by Sen. Bradley. Unfortunately the town of Plaistow is running in the red. I don't think they can afford to do it, and I am of the opinion that the other district courts throughout the state do not have quite that surplus to meet this bill.

Sen. DOWNING: Do you understand that this bill imposes nothing on the court?

Sen. BROWN: Yes, it was stated by Sen. Bradley that it was optional. I am very inclined to believe that every judge would raise the salary.

Sen. DOWNING: Do you also realize that this bill would not become effective until January of 1977, which would offer you plenty of time to be real clear on that point as to just what the intention is.

Sen. POULSEN: I support Sen. Brown's motion. I am a little afraid of the buddy system that we are creating here between the judge and his clerk. I would like to see them be separated as much as we could.

Sen. PRESTON: I rise in opposition to the pending motion. In the southern section of the state, the case load is very heavy. We have a very competent individual, and I do not want to see any of these people serving in this capacity, working as hard as they are, and the city of Manchester clerk getting the 75 percent. It is optional, and I would have the trust and confidence in the local justices that they would not abuse the taxpayers.

Sen. BOSSIE: I rise in opposition to the motion. I think the statements that Sen. Brown has set forth obviate the need to have a better district court system and to try to do away with courts that don't sustain themselves. It is the type of thing that this particular court, and I don't know anything about it, but I would imagine that the area should become larger, so that it will become self-sustaining.

Sen. FOLEY: I rise in opposition to the pending motion. I attended the hearing, and many judges were there. Many judges that didn't come themselves sent letters in saying that they were very much in favor of this and that it was much needed. I think it has been ten years since these clerks of court have had raises of any kind. Many of them work over 40 hours a week and make a very low salary. The clerks themselves came to the hearing, and they each told of their work load and the low salary that they receive. Many county officers came and spoke for it. There was not a person there who spoke against it. I think everyone should think about this before they vote to go along with Sen. Brown's motion.

Sen. BLAISDELL: I rise in opposition to the pending motion. I know that the work load in the Keene area has been rising. I would hate to think that we could lose the competent clerk that we have.

Division vote: 9 yeas, 10 nays. Motion lost.

Amendment to SB 14

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect January 1, 1977.

Amendment adopted. Ordered to third reading.

SB 40, amending a contributory pension system for employees of the city of Manchester, based on an actuarial study of contributions and payments to replace the

existing pay-as-you-go system. Ought to pass as amended. Sen. Ferdinando for the Special Committee: Manchester Delegation.

Sen FERDINANDO: The amendment takes away the salary. The committee felt that the retirement board members shouldn't be compensated \$500 a year. They should want to serve on their own without compensation. This will be a referendum question. The committee recommends passage.

Amendment to SB 40

Amend the bill by striking out section 6 and renumbering sections 7 through 23 to read as

6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 and 22 respectively.

Amend the bill as amended by striking out section 22 and inserting in place thereof the following:

22 Effective Date. Section 21 of this act shall take effect upon passage. If the remaining provisions of this act shall be adopted as provided in section 21 of this act, said provisions shall be declared adopted and shall become effective January 1, 1977.

Amendment adopted. Ordered to third reading.

SB 21, providing within the program on alcohol and drug abuse, technical assistance to employers and employee organizations in developing programs for early identification and referral to treatment of employees who are affected by alcohol or drugs, and making an appropriation therefor. Inexpedient to legislate. Sen. Saggiotes for the Committee on Public Institutions.

Sen. MCLAUGHLIN: The committee, after deliberation of this bill, came to some conclusions. (1) It is not an emergency at this time. (2) It requires an appropriation of \$40,000. This bill was previously in the House last session. There was not enough testimony as far as we were concerned by the industry that they would go along with this at this time, and we can probably get along with this until next session and entertain it at that time.

Sen. Bossie moved that Ought to Pass be substituted for Inexpedient to Legislate.

Sen. BOSSIE: I would urge my colleagues to vote for this bill. This was requested of me by Rep. Copenhaver of Hanover and with the idea in mind to assist in providing finally in the state of New Hampshire some information to employers and employees with an alcohol problem. I think that any Senate that passes a bill which provides that it can sell liquor along the roadside on Route 93 can vote a mere \$40,000 for this program. This is very inexpensive considering that it would be \$40,000 of which \$18,000 would be recovered. We have taken a position in New Hampshire that we need the revenues from the sale of alcohol. At the same time we have to realize that there are a number of people with an alcohol problem. This is a very inexpensive way to start on that problem. I would ask you to vote for the bill.

Sen. BROWN: If the contribution from employers of \$18,000 doesn't mature, where does the \$40,000 come from?

Sen. BOSSIE: You are the expert, more than I. I would assume that it would come from the liquor bottle, eventually.

Sen. BROWN: Sen. McLaughlin, as we discussed this in committee, am I correct in that we came to the conclusion that it is creating three new positions?

Sen. MCLAUGHLIN: As I recall, it was creating a director, a secretary and two consultants to work on this program. At the same time, it is unfortunate that the sponsor was not at the hearing to testify or to hear what was said at that time. Very few business people showed up there to testify that they had a problem in their shop that they wanted to work with, or ask the state for assistance. There was no one there to testify that they were willing to contribute \$18,000.

Motion failed.

Report adopted.

Sen. Foley is recorded as being in favor of the bill.

SB 26, requiring persons convicted of driving while under the influence of intoxicating liquors or controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program. Referred to Interim Study Committee by Transportation Committee for report to the 1977 Legislature. Sen. McLaughlin for the Joint Committee of Public Institutions and Senate Finance.

Sen. MCLAUGHLIN: We had an extensive hearing on this bill, which is rather a complicated bill. After July 1 there will be no more ASAP program in the state of New Hampshire, which is federally funded. The feds started this program off, and after a certain period of time it is transported back to the state. They anticipate getting money

for this by having a person who is convicted of DWI in local courts be sent to a school and be charged a minimum of \$50.00 to attend the classes. It is anticipated that this could be as many as 4,000 DWI convictions required to go to this course. It was felt that this is a very complicated situation, the manner in which this bill was written. There are some loopholes to it, some problems with it, and we think it should go to a study committee to be properly analyzed. There are questions regarding who is going to run the classes. It probably has some merit, but we think a study committee should try to rectify the problems between all parties involved and bring it back next session.

Sen. Ferdinando moved to make **SB 26** a Special Order for Wednesday at 11:02. Motion adopted.

SB 20, making an appropriation to the department of agriculture, water supply and pollution control commission, and the department of entomology, university of New Hampshire. Inexpedient to Legislate. Sen. Poulsen for the Committee on Recreation and Development.

Sen. POULSEN: This bill has an appropriation of \$129,000, primarily to hire additional entomologists for the Department of Water Supply and for the University of New Hampshire primarily for the study of black flies and mosquitoes. I don't think they are by any means a plague at this time, and I don't think there is any need of us spending this kind of money right now. There is danger at all times from epidemic diseases from mosquitoes, but we have the means to take care of that now.

Sen. PRESTON: I speak in support of what Sen. Poulsen said, but I would like to make it clear to the Senators that a vote for the committee report should not in any way be interpreted as against control of mosquitoes or black flies. They are a tremendous problem down in the seacoast. They are costly economic losses. They are really a danger to health. There are now labs available for these studies, and it was a question in our mind of funding at this time where there are more critical areas where the dollar should go. The committee fully recognized the need. Not one cent of this money was to go for the actual control work itself, but only for research.

Adopted.

SB 12, establishing a special legislative committee to investigate certain aspects of the unemployment compensation law. Inexpedient to Legislate. Sen. Downing for the Committee on Rules and Resolutions.

Sen. DOWNING: The reason the committee decided this bill would be inexpedient to legislate was that there is already a standing committee in the House which has done a great deal of work and has invited the Senators to participate to any degree they would like. It just seemed like a duplication of effort. They have done a lot of work and gone into the areas of concern to the sponsor of the bill.

Adopted.

SCR 1, to petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency. Ought to pass. Sen. Stephen Smith for the Committee on Rules and Resolutions.

Sen. S. SMITH: The committee gave this SCR a great deal of consideration and felt that it was something which is essential and something which should be passed due to the increasing federal deficits, which have been mounting, particularly in recent years. We feel that a national convention should be called, a Constitutional Convention, to consider this matter, and to hopefully bring these deficits under control.

Sen. BRADLEY: I rise in opposition to this resolution, not because I am against the subject matter. I do believe that the federal government ought to have a balanced budget wherever possible, except in the case of emergency. However, I do not think this is an appropriate way to go about it. This issue has been debated in the past. If a Constitutional Convention were called, it would open up a Pandora's Box that we would have absolutely no control over and any other kind of amendment also might be proposed. If this were a resolution memorializing the Congress to adopt this amendment and propose it to the states for ratification, I would vote for it, but I will not vote for it in this form.

Sen. MONIER: I rise in support of the motion made by the committee. This is an historic occasion—Sen. Trowbridge and I are on the same bill. I certainly wouldn't want to see it defeated. There are twelve states at the present time that are introducing a similar resolution. Article 5 of the federal Constitution is not frequently used. As a matter of fact, it was only used when we created the Constitution, and perhaps it is time to be able to use it again. Under Article 5, if they are convened, they must deal with those issues presented to it. I am hopeful that this resolution will pass.

Passed.

SJR 1, establishing a special committee to study tax reform at all levels of government. Ought to Pass with Amendment. Sen. Downing for the Committee on Ways and Means and Administrative Affairs.

Sen. DOWNING: The amendment just changes the membership on the committee. Item C, the Minority leader of the Senate and the House, and it added, "or their designee." Item E was originally three representatives from business and industry, and "labor" was added in there by the amendment. Item G, five representatives of the general public, jointly appointed by the President of the Senate and the Speaker of the House, and the amendment adds in the Governor, so the Governor, the President and the Speaker will jointly appoint five—members from the general public. Section 5 is new and says that the committee shall organize and commence its study not later than thirty days after passage of this resolution. If any appointed position is not appointed within thirty days after passage of the resolution, the members of the committee as then constituted shall fill such position by majority vote. That is a new section. The final part of the amendment was the reporting date which was changed from November 6 to December 6. I urge you to accept the committee report.

Sen. MONIER: Regarding the five members appointed by the Governor, Senate President and Speaker, does this mean that if these members are not appointed by a particular time, then they will be filled by a majority vote? Does this mean that if they don't agree on these five, then the committee constituted at that time would then vote and fill those positions?

Sen. DOWNING: Correct.

Passed.

Division Vote: 8 yeas, 12 nays. Motion lost.

Sen. Downing moved that SJR 1 be laid on the table.

Division Vote: 11 yeas, 10 nays. Adopted.

INTRODUCTION OF SENATE BILLS

Sen. Ferdinando moved the adoption of the Rules Committee report allowing the introduction of **SB 45** and **SB 46**.

Sen. Bossie moved that the question be divided.

Motion adopted.

-mQuestion is on the adoption of the Rules Committee report allowing the introduction of **SB 45**.

Adopted.

Question is on the adoption of the Rules Committee report allowing the introduction of **SB 46**.

Adopted.

First and second reading

SB 45, to increase the maximum interest payable on bonds issued by a housing authority. (Ferdinando of Dist. 16—To Executive Departments, Municipal and County Government.)

SB 46, authorizing the commissioner of safety to grant certain department of safety employees police powers for certain circumstances. (Jacobson of Dist. 7—To Transportation.)

Sen. Lamontagne moved suspension of the rules to allow the introduction of a senate bill.

Sen. LAMONTAGNE: At the beginning of the Special Session, I had proposed this bill which I had just received from Legislative Services and which was not drafted correctly. The bill before you now is printed correctly, and this is permitting gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. This is only asking for 80,000 lbs. on interstates, where 41 other states have adopted the Federal Act. This is an emergency because the state of Maine has passed 80,000 lbs. The state of Maine cannot cross into New Hampshire as we have not adopted the Federal Act on interstates. There were some Senators who had felt that this bill was not necessary because the federal government has already passed it. That is not correct. You must adopt this Federal Act in order for the state of Maine to be able to transport through New Hampshire to be able to connect themselves on the interstate system with other states. I am only asking you to give me a hearing. A New Hampshire truck can only register for 73,280 lbs. If a New Hampshire truck is in Massachusetts and wants to pick up a load of 80,000 to take to other states that have adopted this

Federal Act, they cannot do it because they cannot register more than 73,280. I hope you will give me a hearing.

Sen. SAGGIOTES: I rise in support of the motion to allow the introduction of Sen. Lamontagne's bill. I supported the previous two motions to allow the other two bills, and I want to be consistent. He is only asking for a public hearing.

Sen. Sanborn: For the first since I have been here, I am supporting Sen. Lamontagne in this bill, since it only covers the interstate highways. I support Sen. Lamontagne.

Sen. CLAVEAU: I support the pending motion. This is important to the industry and for good neighbors, and it is also important to shippers who are depending on this sort of service.

Roll call vote requested by Sen. Poulsen, seconded by Sen. Lamontagne.

The following senators voted yea: Senators Lamontagne, Poulsen, Stephen W. Smith, Gardner, Bradley, Bergeron, Saggiotes, Monier, Blaisdell, Rock, McLaughlin, Claveau, Roger A. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie and Downing.

The following senators voted nay: Senators Preston and Foley.

Result: yeas 19, nays 2. Motion adopted.

First and second reading and referral

SB 47, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. (Lamontagne of Disst. 1—To Transportation.)

Senator Downing moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday at 11:00 a.m.

Adopted.

LATE SESSION

Third reading and final

SB 10, repealing section 1-a of the Berlin city charter relative to absentee voting in the annual city elections and repealing the 5-day requirement for correction of the checklist in Berlin.

SB 23, reinstating Hesser college as a corporation and ratifying certain degrees granted by them.

SB 44, relative to changes in the fuel adjustment charges of public utilities.

SB 18, permitting the removal of contents of a safety deposit box by a surviving joint tenant without approval of the department of revenue administration.

SB 15, continuing the solid waste committee.

SB 43, revising the economic poisons law.

SB 7, permitting any state agency to return to the sender a check, draft or money order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met.

SB 30, amending the qualification requirements for the directors. - of the divisions of public health services, welfare and mental health within the department of health and welfare.

SB 8, making a supplemental appropriation to nurses registration board.

SB 19, making a supplemental appropriation for the bureau of markets in the department of agriculture.

SB 24, amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to New Hampshire upon discharge from military service.

SB 27, making a supplemental appropriation to the bank commission, increasing the appropriation for the public defender system in Merrimack county and making a supplemental appropriation to the barbers' board.

SB 42, relative to the dissemination of hard-core pornographic materials.

SB 11, redefining the term master electrician as used in RSA 319 - C.

SB13, relative to the confidentiality of dental review committee proceedings.

SB 14, to allow a district court justice to establish the court clerk's salary.

SB 40, amending a contributory pension system for employees of the city of Man-

chester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system.

Adopted.

Sen. Brown moved the Senate adjourn at 6:10 p.m.

Adopted.

March 30, 1976

Honorable Alf E. Jacobson
President of the Senate
Room 301, State House
Concord, New Hampshire 03301

Dear Mr. President:

The Special Joint Committee to Study Election Laws held its organizational meeting on September 18, 1975. Senator William Sanborn was chosen as Chairman, Representative Milton Cate as Vice Chairman, and Representative John Bednar was chosen to be Clerk. It was decided that a complete revision of the Election Laws was required.

The patchwork endeavors over the last 50 odd years indicated a need of complete revision. Starting on this basis we proceeded with our endeavors. Many people have testified before the Committee, such as the Secretary of State, the Attorney General, Mr. Snow of the Ballot Law Commission, the Chairman of the New Hampshire Republican State Committee, and others. All have indicated the need of a thorough revision.

Of late, we have endeavored to find an answer to the principal problem of all checklist supervisors i.e., what is a resident? Each time that we believe we have a clear path, we find a road block has been placed in our way by decisions made by the Supreme Court.

We presently feel a system of registrations similar to that of the State of Oregon, with some modification, may answer our needs here in New Hampshire. In this area we may have legislation prepared before the end of this Special Session.

A second controversial area now being considered is the makeup and powers of the Ballot Law Commission itself. Attorney General Rudman and others have indicated the Office of Attorney General should not be included and the Committee seems to be in agreement. By how and who new members shall be chosen is now being considered within our Committee.

It is anticipated that more rapid progress will be made as soon as we pass the hurdle of residency definitions. We may not complete the full review by the next regular session, but do anticipate many changes will have been completed and in for action by the 1977 Legislative Session.

Sincerely,

William E. Sanborn
Senate District 17

Wednesday, 31 March 1976

The Senate met at 11:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.
Make us worthy Lord of the position or office we hold. Help us to see ourselves as

others see us'. In this Holy Season keep our eyes fixed on thee and direct all our work for the betterment of this State and Nation. Deliver us from overly small concerns so we may give our energies to paramount needs of this time in history. Unite us where we are divided, reconcile us where we differ and redeem us from all evil. Grant us grace and wisdom to close the chasm between the strong and weak, the rich and the poor, the ruler and the ruled. That living together in a spirit of unity and the bonds of everlasting peace we may become masters of our own destiny. May thy spirit pervade in the redeemers name. Amen.

Mrs. David Curtis led the Pledge of Allegiance.

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE

Sen. Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk House Bills number 18, 25, 3 and 26 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and second reading and referral

HB 18, establishing maximum noise levels for motorboats. Referred to Transportation.

HB 25, relative to extension of time limits for eliminating burning dumps in certain towns. Referred to Environmental Control.

HB 3, to redefine professional nursing to include the performance of certain medical functions in collaboration with physicians or dentists licensed in other states and Canada. Referred to Public Institutions.

HB 26, relative to the organizational convening of the general court. Referred to Rules and Resolutions.

HOUSE CONCURRENCE

SB 6, implementing the staggered registration system for private passenger vehicles.

HOUSE NONCONCURRENCE

SB 1, delaying the effective date of health and accident insurance coverage.

SUSPENSION OF RULES

Sen. reston moved the rules be suspended so far as to allow Senate Resolution No. 1 to be placed on second reading.

Sen. PRESTON: This may be somewhat academic as we have received word that the Secretary of Transportation has told the Coast Guard to remove themselves from New Hampshire lakes, but this in effect would be calling for a moratorium of the Coast Guard's assumption of jurisdiction of any waters, lakes or waterways within the state that are not coastal. I think it is still imperative that we send this message down to Washington, and I would appreciate it if my colleagues could act on it at this time.

Sen. BERGERON: I rise in support of the pending motion. We have received calls and letters of inquiry as to what is going on. I think a message should go down from the Senate, and I ask you to support the pending motion.

Adopted.

Sen. Lamontagne moved that the resolution be laid on the table.

Adopted.

COMMITTEE REPORTS

SB 32, relative to the land sales full disclosure act. Inexpedient to Legislate. Sen. Rock for the Majority. Ought to pass with amendment. Sen. Presyon for the minority. (Energy and Consumer Affairs and Executive Departments, Municipal and County Government-Joint)

Sen. ROCK: In hearing the testimony on this bill and deliberating in executive session, the majority of the committee felt that this bill would be affecting the small land owner in an adverse manner. It was also felt that the bill might be a back door attempt to give authority to call hearings and charge parties involved for cost of hearings and really in no way solves the type of problem that the legislation attempts to cure. Requiring the registration and full disclosure will not solve the problem that occurs after a home is built or purchased that arise duly through faulty construction or installation of systems by the developer. If the developer installs a faulty system, consumers have adequate resorts by civil action to have the problem corrected and the land sales full disclosure act was never intended or designed for this purpose. Actually we see this bill as it is now amended and presented as preventing the small land owner who owns two house lots from trying to sell off one of them or divide a larger lot so he can sell a portion of his lot to someone else without going through the rigorous hearings that this bill would call for. We also see it as an attempt to substitute additional government regulatory powers to solve a problem that can best be solved by appropriate civil suit. The state cannot possibly intervene into every consumer problem that can possibly arise without increasing the size of the budget of the Consumer Protection Division of the Attorney General's Office, which would be a direct result of this legislation. We recommend it inexpedient to legislate.

Sen. SAGGIOTES: Under the present law, what is the number of lots that are exempt?

Sen. ROCK: The present number is 50.

Sen. SAGGIOTES: The proposed legislation reduces it to what number?

Sen. ROCK: As I understand it, zero.

Sen. SAGGIOTES: So if this proposed legislation reduces it to zero, does this mean that an individual with a home that has an extra lot on it would have to come under this legislation?

Sen. ROCK: That was one of the reasons that we felt that it would be a real hardship on the small landowner.

Sen. SAGGIOTES: During the process of these hearings that the individual would have to go through, would the charge be against the owner of the property, or would someone else absorb it?

Sen. ROCK: It would be an unfortunate financial burden on the owner of the property.

Sen. BOSSIE: Is it not true that if we kill this bill that condominiums that are becoming very popular in our state would still be excluded from control and therefore condominium owners and developers will have carte blanche in the sale and failure to disclose under our laws?

Sen. ROCK: I am not conversant with the problem that you are addressing. If this bill was intended to get at the problems with condominiums that I think is probably one of the hardest hit businesses in the United States, certainly one of the hardest hit businesses in New Hampshire—the condominium people need another problem like they need a hole in the head—but if that is what you were getting at with the bill, we don't think it addresses it in a correct way, and perhaps another piece of legislation would be in order.

Sen. BOSSIE: With respect to condominiums, is it not true that if the condominium business in New Hampshire were booming as it is in Florida, that it would be almost impossible for the Legislature to make any changes because of the high pressure lobbying that would be done, as has happened in Florida? That is why they have so many problems. Elderly people go down and buy these condominiums, have a 99 year lease on swimming pools that they don't even use, costing them \$300 or \$400 a year.

Sen. ROCK: After yesterday, I wouldn't say anything is impossible for this Legislature.

Sen. MONIER: I have to rise in opposition to the majority report, as I am sponsor of the bill. I would like to give a little history as to why this bill came about. In my Senatorial District there are several developments in which I have had innumerable discussions and meetings with respect to a single factor, that unlike other practices where the Attorney General's Consumer Affairs Office has a capability of interjecting that office to protect the buyer, the capability of the Attorney General's Office of Consumer Affairs to interject his office into developments and house sales has been specifically eliminated. As a result, in this particular case—it happens to be in one of the towns in my district where there have been a whole series of litigations, and they had been attempting to get a state service to assist them in this matter—since state agencies, such as the Water Resources Board and the Water Supply and Pollution Control Commission, with the multiplicity of permit granting that we have in this state, had already authorized the construction, and done things, so that the laws had been met, yet these people wound up with individual dwelling units in areas in which they were having serious septic and serious drainage problems. Nobody in the state agencies had been able to do anything for them. I managed to get them to the Attorney General Consumer Affairs Office, who spent considerable time with them, and when this was all done, it shook down into one thing—the Attorney General's Office of Consumer Affairs has no statutory authority to involve itself in these kinds of practices. I then told these constituents that I would introduce some kind of legislation which would provide the Attorney General the opportunity to initiate action or take action in these kinds of circumstances. The particular development was over 50 houses. I left this to Legislative Services and the Attorney General to draft. At the present time I find one thing in here which I have to agree with Sen. Rock. I had no intentions with this original bill of reducing it from 50. I still feel very strongly that the Attorney General should have some statutory authority where required to interject himself through the Consumer Affairs Office, into problems where in any development there has been this kind of improper construction perhaps or where the owners and buyers of the property are now in a position where they have no redress on this particular thing. This was the intent of the bill. I am concerned about the wording of this bill, but I still feel that the principle that I initiated the bill for is something that has to be considered by this body and other bodies immediately. I feel that this bill can be the vehicle, with proper study and proper amendments, it can accomplish what needs to be done, and that is to protect some home buyers in these kinds of cases.

Sen. McLaughlin moved to recommit SB 32 to the Joint Committee of Energy and Consumer Affairs and Executive Departments, Municipal and County Government.

Sen. BOSSIE: I rise in support of the motion by Sen. McLaughlin. This is a very important bill. As Sen. Monier suggested, it perhaps is not correct and perhaps not enough work has been done on it. I suggest that one of the main problems with it is that it lowers the number of proposed lots from 50 to zero. I do not think that is proper. A lot of people in the state of New Hampshire have had the same problems as Sen. Monier's constituents, and with a substantial number up in the North Country. I recommend we send this back to committee for further study.

Sen. MONIER: I would support the motion to recommit this to committee.
Adopted.

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets. Ought to pass with amendment. Sen. Blaisdell for the Committee on Senate Finance.

Sen. BLAISDELL: As most of you know, I served on the Governor's Commission for Racing this past summer, along with Sen. Lamontagne and Sen. Bergeron. We listened to the working people of that industry, and I learned that this industry is dying in the state of New Hampshire. If we allow this to die, it means that we are going to lose, now, \$3 million worth of revenue that we receive from this industry. In 1971 and 1972, we took in exactly \$5 million in revenue from the harness racing program. We have

allowed, in the last four or five years, for it to get down to the point where we are not only going to be losing a \$3 million revenue source but we are going to lose a \$35 million industry to the state of New Hampshire. I do not believe, in these times, that we can afford to let this type of industry to go out of our state. \$35 million means a lot to the economic structure of this state. When I talk about \$35 million, I mean that this industry pays people, trainers, grooms, and it is very hard for this type of people to find other jobs. They also buy hay, fences, and they live here and pay taxes here. I believe it is about time that the state of New Hampshire accepts some responsibility in protecting its revenue in the industry that we have. This is an ecologists dream, by the way. We do not have any ecologists coming in and saying that it is a bad industry to have in the state of New Hampshire. It is a good industry to have in this state. It keeps open space. Some of the farms that have sprung up in the last few years are beautiful. The commission that we worked on recommended that we fund the Sire Stakes Program for \$350,000. We have amended this to include \$150,000 the first year, \$250,000 the second year, and \$350,000 the third year. I sincerely believe that this is one of the most important decisions that we will have to make. We have the power to save this industry. In Senate Finance I stated that I truly believe that horses don't come before the State Hospital, horses don't come before the Laconia State School, horses don't come before handicapped children, or hemophiliacs, but this is where we get the revenue to be able to fund these other things. It is a good business investment. In my business, I have to invest back into it to keep people coming into my store, and I think it is time that the state of New Hampshire does the same thing to protect what they have. This was not done for the big horse breeders in this state; this was done for the working people of this state. These people need the work. I hope I speak for them.

Sen. SANBORN: You mentioned that we are presently receiving about \$3 million from the horses and in 1972 it was \$5 million, which is a downgrade over a short period of time. How are other states that are in this program in comparison?

Sen. BLAISDELL: The harness industry in the United States and all over the world is probably enjoying the largest attendance and revenue that has ever been in the harness racing business. New Hampshire is the only state that has dropped off. I think this sire stakes bill will help bring it back to where it should be. We had trouble with the tracks not wanting to take part in this, but they feel now that it is a great thing. I think we have to give them something to promote.

Sen. SANBORN: I believe that last year, under the small amount that was funded for the Sire Stakes Program that there were about eight or a dozen races run. How was their take compared to the regular days?

Sen. BLAISDELL: At Hinsdale Raceway, I think we had seven races last year, and the take on a Tuesday evening would usually be around \$73,000. The nights the Sire Stakes Program ran, it went up to \$129,000. That would be an eighteen percent increase. At Rockingham Park it went up \$50,000 in handles the night it was there.

Sen. SANBORN: Since this program was started about a year ago, there has been some interest shown in horses being produced here in New Hampshire that are eligible to enter into the Sire Stakes. Has there been a big increase in this area of standing studs and foals dropped?

Sen. BLAISDELL: There has been a tremendous increase.

Sen. BROWN: I do not have the statistics in front of me, but as I recall, since the program was implemented, the enticement that is given to the people in the standardbred industry has been something like 46 to 50 new stallions brought into the state. There has been over \$1 million worth of property both purchased and constructed, strictly because of the interest in the Sire Stakes Program.

Sen. BRADLEY: What is the difference between the amendment and the original bill?

Sen. BLAISDELL: The original bill called for a \$350,000 appropriation each year from here on. But we found through some work in Senate Finance that they wouldn't need that much money coming this year to be able to put on the 30 or 40 races that we are going to have, if this bill passes. The peak of the program is three years away. That is when we are going to need \$350,000. There will be some matching funds. The

horsemen, the track and purses will be added to this, so we will probably have about a \$600,000 or \$700,000 Sire Stakes Program, purses for our New Hampshire bred horses.

Sen. BRADLEY: What is the difference in dollars between the present law and what you are proposing?

Sen. BLAISDELL: The present law, we get one-quarter of one-percent of the breakage up until this year, which would be about \$107,000. We anticipated getting \$173,000, but with exotic wagering and everything, it has brought down the breakage. The Sire Stakes Program this year would probably get about \$107,000. That goes back, of course, and no longer goes to the Sire Stakes Program. So it would be basically \$150,000 that they will get the first year; \$250,000 the second, and then \$350,000.

Sen. BRADLEY: So basically what you are asking for is more money to go into the Sire Stakes Program, from state funds?

Sen. BLAISDELL: yes.

Sen. LAMONTAGNE: I rise in support of the proposal that has been made by Sen. Blaisdell. Our Commission on Racing held a hearing. There were a lot of horsemen, and also representatives from the dog tracks, and the dog track does not oppose this proposition. We need the revenue from this industry, and we need the employment. This is helping the economy of the state of New Hampshire. I am asking you to support this proposal, for the benefit of saving revenue for the state.

Sen. SAGGIOTES: I rise in very strong support for this bill. Much of the arguments have been brought forth already in terms of revenue to the state. A very important figure that comes to my mind is not the \$3 million that Sen. Blaisdell talks about, but if you look at the whole picture of horse racing and particularly the race track that brings in the most amount of money to the state, that is Rockingham Park, and if the harness racing income continues to drop there will be some question as to whether or not they will be able to continue to operate their harness racing, which is also run in conjunction with their flat racing, which brings the state of New Hampshire an additional \$5 million per year. It raises the question in the minds of investors as to whether they would continue to operate that plant as a racing facility or develop it into something else. If they decide to develop it into another type of project that would return more money to the investors and stockholders and it has nothing to do with racing, then we are not talking about \$3 million a year, but we are talking about \$16 million for the biennium. Even though I was a prime sponsor of dog racing a couple of sessions ago, I don't think that we could have enough dog racing that would take the place of the \$16 million that I am talking about. Therefore I urge you to support this bill.

Sen. FERDINANDO: I am not going to oppose this bill, but I have some questions. Assuming this industry is dying, are we not, in this bill, saying we are going to give \$150,000 from general funds this year, \$250,000 next year, and \$350,000 the following year, I have some doubts as to whether or not this is going to be the salvation of the harness horse industry in New Hampshire, although I hope it is. It will be interesting, will it not, in the years to come to see whether or not this bill will generate harness racing enthusiasts that we do not have today? I assume you feel it is going to do that?

Sen. SAGIOTES: I am not a magician; I am not an economist. I cannot forecast what will happen. But the harness racing industry in New Hampshire is having a difficult time. It is my judgment that through the Sire Stakes Program the harness racing industry will be revitalized. I think you are going to get your money back many times. So my answer to you is yes.

Sen. BROWN: Could you enlighten us as to how the harness racing has done in other states that have a Sire Stakes Program?

Sen. BLAISDELL: I think Pennsylvania has a \$2 or \$3 million Sire Stakes Program; New York has \$4- or \$5 million program. They have just gone ahead tremendously. The interest there is growing in leaps and bounds.

Sen. BOSSIE: I rise neither in support nor in opposition to this bill. I find it quite ironic that today we are discussing a bill to provide \$150,000; \$250,000; \$350,000 to give to horse owners to encourage them to raise and sire their horses here in New Hampshire and at the same time yesterday we denied a small amount of \$40,000 to rehabilitate people who have a drinking problem. I just think it is a question of priorities. The

sponsors are very sincere, and I am sure it would be a great thing for the industry and perhaps it would enhance the state of New Hampshire, and I have no doubt about that. All I desire, not to be silent and allow funds to be expended in this manner without at least thinking about some of the other problems that this state faces.

Sen. BLAISDELL: I appreciate your sentiment, but what comes first, the chicken or the egg? I think I tried to explain that the State School, alcohol abuse programs, all of them are important, more important than horses. I agree with you. But the present tax structure that we have in this state—I have to vote for your betting card bill when I hate it—because we have to have revenue to take care of the human needs of the people of New Hampshire. We are trying to improve the revenue so that we can fund these needs.

Amendment to SB 17

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Tax on Harness Horse Race or Meet. Amend RSA 284:23, II as amended by striking out said paragraph and inserting in place thereof the following:

II. Each person, association or corporation licensed to conduct a harness horse race or a harness horse race meet under this chapter shall pay to the state treasurer a sum equal to 5 1/2 percent of so much of the total contributions to all pari-mutuel pools conducted or made at any harness horse race or harness horse race meet licensed here under as does not exceed \$400,000; 6 3/4 percent of so much thereof as exceeds \$400,000 but does not exceed \$450,000; 7 1/4 percent of so much thereof as exceeds \$450,000 but does not exceed \$500,000; 7 3/4 percent of so much thereof as exceeds \$500,000 but does not exceed \$550,000; 8 1/4 percent of so much thereof as exceeds \$550,000 but does not exceed \$600,000; 8 3/4 percent of so much thereof as exceeds \$600,000 but does not exceed \$650,000; and 9 1/2 percent of all over \$650,000. Of the amount so paid to the state treasurer, a sum equal to 1/4 of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture, the sum of \$150,000 per fiscal year shall be deposited in the sire stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2.

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Tax on Harness Horse Race or Meet. Amend RSA 284:23, II as amended by striking out said paragraph and inserting in place thereof the following:

II. Each person, association or corporation licensed to conduct a harness horse race or a harness horse race meet under this chapter shall pay to the state treasurer a sum equal to 5 1/2 percent of so much of the total contributions to all pari-mutuel pools conducted or made at any harness horse race or harness horse race meet licensed hereunder as does not exceed \$400,000; 6 3/4 percent of so much thereof as exceeds \$400,000 but does not exceed \$450,000; 7 1/4 percent of so much thereof as exceeds \$450,000 but does not exceed \$500,000; 7 3/4 percent of so much thereof as exceeds \$500,000 but does not exceed \$550,000; 8 1/4 percent of so much thereof as exceeds \$550,000 but does not exceed \$600,000; 8 3/4 percent of so much thereof as exceeds \$600,000 but does not exceed \$650,000; and 9 1/2 percent of all over \$650,000. Of the amount so paid to the state treasurer, a sum equal to 1/4 of one percent shall be expended for the promotion of agriculture in the state under the direction of the commission of agriculture, the sum of \$250,000 per fiscal year shall be deposited in the sire stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2.

7 Tax on Harness Horse Race or Meet. Amend RSA 284:23, II as amended by striking out said paragraph and inserting in place thereof the following:

II. Each person, association or corporation licensed to conduct a harness horse race or a harness horse race meet under this chapter shall pay to the state treasurer a sum

equal to 5 1/2 percent of so much of the total contributions to all pari-mutuel pools conducted or made at any harness horse race or harness horse race meet licensed hereunder as does not exceed \$400,000; 6 3/4 percent of so much thereof as exceeds \$400,000 but does not exceed \$450,000; 7 1/4 percent of so much thereof as exceeds \$450,000 but does not exceed \$500,000; 7 3/4 percent of so much thereof as exceeds \$500,000 but does not exceed \$550,000; 8 1/4 percent of so much thereof as exceeds \$550,000 but does not exceed \$600,000; 8 3/4 percent of so much thereof as exceeds \$600,000 but does not exceed \$650,000; and 9 1/2 percent of all over \$650,000. Of the amount so paid to the state treasurer, a sum equal to 1/4 of one percent shall be expended for the promotion of agriculture in the state under the direction of the commissioner of agriculture, the sum of \$350,000 per fiscal year shall be deposited in the sire stakes fund established by RSA 426-A:5 and the balance shall be distributed according to RSA 284:2.

8. Effective Date.

I. Section 6 of this act shall take effect on July 1, 1977.

II. Section 7 of this act shall take effect on July 1, 1978.

III. The remainder of this act shall take effect on July 1, 1976.

Amendment adopted. Ordered to third reading.

SB 9, increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor. Ought to pass with amendment. Sen. B for the Committee on Senate Finance.

Sen. PROVOST: **SB 9** makes an appropriation of \$150,000 for the years 1975 and 1976 to be expended by the Liquor Commission for 50 percent instate and 50 percent out-of-state advertising. The amendment takes out sections 1 and 2 and replaces them with a few changes in words. The bill called to prohibit points of sale advertising and the new amendment changes that. Also it removes, "is hereby prohibited" and adds, "authorized by the Liquor Commission." Also it changes the effective date from 60 days to upon passage. DRED takes in close to \$5 million, and they have an advertising budget for two years of \$996,000. The Sweepstakes brings in \$19 million, and they have an advertising budget of \$550,000 plus also a footnote that if their sales go down, they can appear before Governor and Council and transfer funds up to \$1 million. Fish and Game revenue is \$4 million, and they have an advertising budget of \$154,000. Instead of generating revenue, it looks as if Fish and Game will be in between a \$2,000 and \$20,000 deficit. The Liquor Sales, over \$100 million, and the advertising is \$10,000. Also, we just passed a bill giving \$750,000 for a dying business. I think this would be a good investment.

Sen. BERGERON: Don't you think it is an unfair comparison to other advertising budgets?

Sen. PROVOST: Certainly not.

Sen. BERGERON: I am a little bit concerned that we are going to get ourselves involved in a price war with Massachusetts. We are spending \$150,000 of state money, and I don't see any real benefit being derived from it. Would you agree that we don't really need this advertising because people over the Massachusetts border are aware of what the prices are?

Sen. PROVOST: I don't agree.

Sen. BRADLEY: You are asking for an additional \$140,000? Why does the state have to advertise? Why not let the companies do the advertising?

Sen. PROVOST: Yes, for a total of \$150,000. The companies do advertise.

Sen. BRADLEY: If the companies are going to do it, why not rely on private enterprise, rather than the state spending this kind of money?

Sen. PROVOST: The state puts out its own specials, and that is why they advertise the prices. They have weekly specials.

Sen. FERDINANDO: When there is a weekly special, does the company promote that, because they are the ones that are going to benefit from it?

Sen. PROVOST: Yes, they do some.

Sen. CLAVEAU: Isn't it true that the liquor manufacturers will advertise their own product, but they will not advertise the New Hampshire liquor stores?

Sen. PROVOST: They will advertise in New Hampshire, but they will not advertise in Massachusetts.

Sen. CLAVEAU: They will not advertise the sales at the N. H. Liquor store, but they will advertise their product, and that is why you need the \$150,000?

Sen. PROVOST: That is right.

Sen. MONIER: I would like to rise in support of this. I recognize the questions that are being asked, but I think we ought to ask ourselves another question. The Liquor Commission is raising revenue to the state of New Hampshire of approximately \$30 million a year. We are talking a \$150,000 advertising budget. If any of us have ever had a \$30 million business, I am sure that you would find that one-half of one-percent for advertising would be a very cheap price. My understanding of the bill is that Massachusetts is beginning to wage some kind of an advertisement campaign along the borders on our stores. I also share with Sen. Bergeron the feeling that we cannot get into an advertising war with Massachusetts because we cannot outbid them. Certainly the Liquor Commission, with the success that they have had of running a business for us with \$30 million of revenue per year, certainly we owe them one-half of one percent to allow them to counteract or to act within their best judgment in terms of this kind of an advertising campaign.

Sen. BERGERON: I don't disagree with your one-half of one percent for advertising if you had this business that you had competition in. But what competition does the State Liquor Commission have in the state of New Hampshire?

Sen. MONIER: Massachusetts liquor stores on the border.

Sen. BLAISDELL: I rise in support of the bill. I think the total amount of business done in state liquor is \$102 million, and we spend \$5,000 a year for advertising. I think this is an investment in the revenue that we have in the state of New Hampshire, and I think it is an investment in protecting that revenue. I think it is a good expenditure.

Sen. BRADLEY: I rise in opposition to this bill. Sitting on the Ways and Means Committee, I have been very troubled, seeing these various bills come through in a hodgepodge fashion, to allow this kind of license and to allow that kind of license, without any kind of overall philosophy, it seems to me, as to who ought to be able to sell liquor, and what kind of controls we ought to have on it, or if we have any kind of controls. It seems to me that this bill is based on the underlying assumption, which I question, that we ought to promote the sale of liquor all-out, no holds barred, no controls, and that more booze is better for the state of New Hampshire. I think it is time for the Legislature and others to question that assumption. Do we really mean that? There is no denying the fact that it is an important source of revenue, and I am not suggesting that we ought to go back to prohibition, or that the state shouldn't have a monopoly. All I am saying is that if we are going to have the monopoly, part of the original idea of the monopoly, I always thought, was that there should be some control, and that we shouldn't go overboard in encouraging people to drink booze, because booze creates one of the greatest social problems that we have. I just cannot reconcile in my mind that we are going to spend whatever it takes to promote booze and to beat out the competition so that there will be more booze flowing around the state. I just cannot reconcile it.

Sen. SAGGIOTES: You just heard it stated that the advertising budget for Liquor Commission is \$5,000 per year. Are you saying that you might consider decreasing that figure?

Sen. BRADLEY: Yes, if it is to close to zero anyway. I might ask the question, why shouldn't it be zero. Starting from the position that if people are going to buy booze anyway, let's control it, let's have a monopoly and let's get money from it, but once you go beyond that step, I question it. I certainly question making a fifteen-fold increase in the advertising budget, without thinking about what kind of a program or policy we are launching ourselves into, which is encouraging the sale of booze.

Sen. SAGGIOTES: Wouldn't you agree with me that the purpose of increasing the advertising budget, as the sponsors indicate, is not to promote the sale of liquor in New Hampshire, but rather to be able to compete with the border stores in Massachusetts that are advertising their liquor as opposed to ours?

Sen. BRADLEY: I understand that part of the notion here is that we are going to meet the competition, but it seems to me a necessary fallout that we are hoping to sell more booze as a result of this advertising, just as when Sen. Blaisdell spends more money for advertising he hopes to sell more baseball gloves.

Sen. SANBORN: Sen. Saggiotes, in your question of Sen. Bradley you say that our interest is to basically get those out-of-state that are using our border stores; we are not

so interested in those instate, and yet the bill, as amended, calls for fifty percent instate, where they are already buying the liquor, and fifty percent out-of-state. I don't quite get the rationale.

Sen. SAGGIOTES: We need the advertising for both instate and out-of-state. As I understand it, the Liquor Commission would like to advertise in out-of-state newspapers. They would also like to use the instate media as well. Some of our instate newspapers do get read out-of-state.

Sen. FERDINANDO: I rise in favor of SB 9. The purpose of the advertising money should be to encourage out-of-state residents who do not know that New Hampshire liquor prices are the lowest in this part of the country. The only way we are going to inform them is by direct mail brochures, etc. so that while they are here they will buy some liquor and take it back home. I think that the kind of money we are looking for should be able to do that, and if utilized correctly, we should be able to get this money back many, many times.

Sen. R. SMITH: I am not going to actively oppose this at the present time. It came from the Finance Committee, which I am a member of, and I think it represents their best thinking. But I do wish to state that I am in opposition to this appropriation, and I do intend to vote against it and to be recorded against it. I don't even know if I can argue against the logic of advertising for the out-of-state business. I do feel strongly though that this is not the proper time for this bill.

Sen. PROVOST: I just wanted to add that the advertising for the out-of-staters is the main thing that we have. If you have seen some of the ads that they have out-of-state, you will see that they also promote Sweepstakes, which they don't have to, and recreation in New Hampshire, which comes right out of the \$5,000.

Amendment to SB 9

Amend RSA 175:10, I and II as inserted by section 1 of the bill by striking out said paragraphs and inserting in place thereof the following:

I. The commission is authorized to advertise and regulate the advertisement of liquor and beverages through the medium of newspapers, magazines, periodicals, television and radio broadcasting, sport films and travelogs. All advertising of liquor and beverages within the state through the medium of billboards is hereby prohibited.

II. All other advertising of liquor and beverages is prohibited unless specifically authorized by the commission.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Effective Date. This act shall take effect upon its passage.

Roll Call requested by Sen. Bergeron, seconded by Sen. Provost.

The following senators voted yea: Senators Lamontagne, Saggiotes, Monier Blaisdell, McLaughlin, Claveau, Ferdinando, Sanborn, Provost, B. Bossie, Preston and Folry.

The following senators voted nay: Senators Poulsen, Stephen W. Smith, Bradley, Bergeron and Roger A. Smith.

Sen. Rock abstained under Rule 42.

Result: yeas 13, nays 5.

Amendment adopted. Ordered to third reading.

SB 34, to permit the taking of depositions in civil cases by means of video tape records. Ought to pass with amendment. Sen. Bossie for the Committee on Judiciary.

Sen. BOSSIE: The amendment adds what the original bill had and then also to include criminal matters. Right now the use of video tape depositions is a rather new thing in New Hampshire in the last two or three years. Previous to that time, all depositions were taken either in shorthand or by the machines. When a witness is absent, you could use those in a trial. You would get them into a trial by having, for instance, your secretary read it into the record. What this basically does is not give the jury, if there should be a jury, the idea and the inflections that are given when it would be in person, such as in a very serious case when it is important to note whether the person is truthful or not. A lot of times you form an opinion mostly by their looks. The amendment would permit the updating of the law so as to have the use of video tape depositions, which are, as you know, put on a television screen and would permit the jury or the judge to see the witness involved. At the hearing we had Judge Martin Loughlin of Manchester who appeared in behalf of the Superior Court judges that they

all favor it. Right now it is controlled by Superior Court rule, and the rule does not permit video tape depositions if either party should oppose it; there is no law which would permit it. Now, under this law, if one wanted a video tape deposition in either a civil or a criminal case, then one would make a motion to the court to take the deposition of a certain party, for instance, an out-of-state doctor, and it would cost less because the doctor wouldn't have to come to court. The lawyers and everybody could go to the doctor's office to take the deposition. It is a good bill and there is no controversy to my knowledge about it. I think it would enhance the cause of justice here in the state of New Hampshire.

Sen. SANBORN: This sounds like a good deal, but who is going to provide the equipment, the video tape, the machine, the screen?

Sen. BOSSIE: There is no cost to the state of New Hampshire. Individuals now who are official court stenographers have formed associations to purchase this equipment. If Sen. BRADLEY and I were opposing each other in a civil case for various clients, and I want a deposition from his client, I ask for a video tape and I pay for it, or my client pays for it. The only time the state would have to pay for it is if they ask for the deposition. If I took the deposition of his witness, and I produce it in court, then I have to again hire that stenographer to come into court with his video tape and everything else, at my expense. As you can tell by reading the bill, this could be tacked on as cost. If I lose, I am going to pay for it. If he loses, the odds are he will pay for it.

Sen. ROCK: What is the court procedure now for the admission of evidence by tape recorders?

Sen. BOSSIE: With just tape recordings, the person who has taken the tape would have to testify under oath that nothing has been done to these tapes, and I suspect that the court in its discretion could either allow them or disallow them. I stand to be corrected, Sen. Bradley.

Sen. ROCK: Is the basis and the rationale for that procedure of for the most part not permitting the recordings in because of the possibility of tampering with it and changing it in some way so that it might not be coming out the way that it went in?

Sen. BRADLEY: I suppose historically that is what it was. This bill actually is going to force the courts, possibly, to address that question. The present law talks only in terms of taking down depositions by shorthand or by a stenotypist. The only other system that is in widespread use is video tape. But we are using the term here, "any acceptable means, including by video tape." It seems to me that with this bill someone is going to be able to raise the issue that they want to take a deposition not by video tape but simply by taping the voice. The court is going to have to decide whether that is acceptable. We aren't answering that question here. As far as I know, the courts have never really addressed that question.

Sen. ROCK: Since the video tape is an evolution of the plain tape, just a step above it, this causes a problem for me when you consider a person taking down the deposition in a law office or in a home or at the person's place of business, and bringing the written testimony into the court room and presenting it as the deposition, by adding that extra feature of, maybe the fellow didn't shave that day or maybe it was a nervous day, or maybe the housewife didn't have her hair done that week, and they are on the video screen now, and you are not reading the words or getting the context of what they are saying, but you are looking at a perhaps less than perfect type of appearance that they might present if they were brought into the court room personally, and do you think this might sway someone's opinion of the testimony, rather than reading and studying the document, looking at the individual under less than ideal conditions?

Sen. BRADLEY: I think it is the feeling of the judiciary or the judges that video tape depositions are much preferable to the old-fashioned written depositions, which were simply read, because it is a live voice and also because the jury is able to view the demeanor of the witness, for good or for bad. Traditionally and historically, the courts have taken this view that being able to see the witness in the flesh is important, for good or for bad.

Sen. ROCK: If in fact seeing the witness in the flesh is the best, for good or for bad, you are stepping away from what is best, and going to something which is an evolution of something that is second best or even not admissible at this time. Can you explain the rationale for that?

Sen. BOSSIE: These things don't just happen overnight. There is several weeks notice on this. In a number of cases, it is impossible for witnesses to show up. As you know, we cannot subpoena witnesses out of state. If we are going to have a doctor from Massachusetts testify in New Hampshire, he either has to come up willingly or we could say that we would go down to him. So then, both sides would be present, and if

there was anything prejudicial in either the demeanor or the person had a problem, it would be up to the court to decide. At the same time, it is very important for the trier of fact, either the jury or the judge, to be able to see the person because there are some things that words don't give. This is very important when you are testing the truthfulness of a witness.

Sen. ROCK: You say you can better judge the truthfulness of the witness by looking at him. But you have also lost the possibility of asking him that all important next question, because he isn't there to answer it.

Sen. BOSSIE: You have. Because the opposing party is always there. Say you were represented by Sen. Bradley, and I represent Sen. Ferdinando, and we are taking a deposition in Massachusetts of your doctor. I am going to be there asking his questions, and your lawyer will be there to protect your rights. It is going to be just as if it were in a court room, and both sides should be prepared at that time.

Sen. ROCK: If you have a witness or suspect that you want to interview but you cannot subpoena him across the state line, what power do you have with your camera and your tape recorder to cross the state lines and force that witness to give you a deposition?

Sen. BOSSIE: None. You have no power to force him to do anything. This does not give any subpoena power.

Sen. ROCK: Then what does it do?

Sen. BOSSIE: If a witness in Massachusetts cannot take a day off to come up here to testify, but he will give a deposition, what is a better case than that? If the court orders it, the defense will be ordered to attend or not, as he wishes, and the witness will be able to testify without wasting his time coming to the state of New Hampshire.

Sen. ROCK: Under what circumstances could you present his deposition that would be acceptable? How could you take that deposition today?

Sen. BOSSIE: You would have to first make a motion to the court. Now it would be by shorthand if there is no agreement. You cannot take a video tape deposition in a civil case now unless there is an agreement by counsel on both sides. Otherwise, it would have to be by a stenographer.

Sen. ROCK: If this law is passed, then you don't need agreement of both sides?

Sen. BOSSIE: No, you need the permission of the court. They are very strict.

Sen. ROCK: Do I understand that you can do all of this now, except the method by which you can do it, you are changing by adding taping of all kinds and video taping in particular?

Sen. BOSSIE: No. Superior Court rules, which have been adopted by the Supreme Court of this state have permitted the use of video tape depositions in civil cases where both parties agree. Up until now it has been by stenographic means, the normal method of taking depositions. The amendment has been proposed by Judge Laughlin to permit the courts to take it in criminal cases. The case that he brought up was several years ago when there was the murder of a disc jockey in Laconia. It was a motor cycle sort of thing. Several of the witnesses were intimidated by other members of the motorcycle gang. So the County of Belknap had to put these people up in a motel, costing the county \$3,000. In this instance, the county attorney would make a motion to take the depositions of the witnesses, the court would order it, the counsel for the defense would be there, and they would take this, and then even if these people were killed off, their video taped deposition could be applied.

Sen. S. SMITH: Isn't the intent of this piece of legislation to expedite the dockets of the Superior Court and by so doing, would it not possibly mean that we would not have to, in some future legislative session, appoint quite as many judges?

Sen. BOSSIE: That could be possible. I know that it has been alleged that a number of defense lawyers in civil defense cases oppose this because now they are able to drag their feet and say they cannot take the deposition, but if the court should order it, they will have to do it. It certainly would enhance the cause of justice. It is not a tricky thing at all. I represent plaintiffs in civil cases and defendants in criminal cases, and I cannot see how it would hurt anybody on either side of the fence.

Amendment to SB 34

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT
to permit the taking of depositions
by means of video tape recordings.

Amend RSA 517:1 as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

517:1 Taking; Use. The deposition of any witness in a civil cause may be taken by any acceptable means, including by means of a video tape recording, and may be used at the trial, unless the adverse party procures him to attend so that he may be called to testify when the deposition is offered.

Amend RSA 517:20 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

517:20 Taxation of Costs of Depositions. When by agreement of the parties, depositions are taken by any acceptable means, including by means of a video tape recording, the court may allow as costs the whole or any part of the expense thereof, as justice may require.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Depositions Taken by Criminal Defendants. Amend RSA 517:13 by striking out said section and inserting in place thereof the following:

517:13 Taking. The respondent in a criminal case may take by any acceptable means, including by means of a video tape recording, the deposition of any person in his defense, upon giving the same notice of the caption thereof to the county attorney that is required to be given to the adverse party in a civil case. Any deposition so taken may be used on the trial of the case whenever, in the discretion of the court, the use thereof shall be deemed necessary for the promotion of justice.

6 Depositions Taken by Prosecution. Amend the introductory paragraph of RSA 517:14-a (supp) as inserted by 1971, 209:1 by striking out said paragraph and inserting in place thereof the following:

517:14-a: Deposition Authorized. The attorney general or a county attorney conducting the prosecution in a criminal case may take by any acceptable means, including by means of a video tape recording, the deposition of any witness the prosecution intends to call at the trial, if it is determined by a justice of the superior that:

7 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

RECESS OUT OF RECESS ENROLLED BILLS REPORT

SB 6, implementing the staggered registration system for private passenger vehicles.

HB 30, making a supplemental appropriation to the division of mental health and the division of welfare for medical assistance recipients who are 65 years or older and are patients of psychiatric institutions.

Adopted

COMMITTEE REPORTS

SB 22, to permit the liquor commission to purchase land in Manchester for locating a state liquor store and making an appropriation therefor. Ought to pass with amendment. Sen. Brown for the Joint Committee on Capital Budget and Finance.

Sen. BROWN: The amendment in the first part is because of a typographical error. In the original **SB 22**, the RSA was misprinted. **SB 22** appropriates in the capital budget \$400,000 for the Liquor Commission to purchase property in the southern part of Manchester for a new liquor store. They had a liquor store there. About five years ago the lease ran out, and in the interim they have been trying to find another place for another store that they could lease, to no avail. Because of this reason, they would like to purchase property there for a future liquor store. The second half of the amendment refers to the Youth Development Center. In the 1975 capital budget there was an item for \$5,000 to install a catwalk in the boiler house with a new distribution panel and safety controls. While they were there doing that, they inspected the boiler and found

that boilers number two and three were in very bad repair in relation to the combustion chambers. There is a wall separating the refractory separating the two combustion chambers, which is in dangerous condition. These two boilers are set on a masonry wall which is in very poor shape. I talked to Mr. Merrill, the engineer who surveyed the situation, and he said to his recollection nothing has been done on these for the past twenty years. So that increases that item from \$5,000 to \$25,000 to accomplish this at the Youth Development Center.

Sen. BERGERON moved that **SB 22** be made a Special Order at 11:03.

Sen. BERGERON: The reason for doing this is that several developments have occurred. We all have specific feelings on the bill; we have some people that have left the Chamber that are trying to get the matter straightened out, and I ask the indulgence of the Senate to put this off for the present.

Adopted.

SB 29, relative to licensing of diagnostic or treatment facilities. Ought to pass. Sen. McLaughlin for the Committee on Public Institutions.

Sen. BROWN: **SB 29** changes the wording in the public health laws, Chapter 151:2. On page 2 of the bill, the fifth line up from the bottom, that one sentence has been added to the existing law. The purpose for that is that within the state there have been some private laboratories set up to take urinalysis, blood tests, and a blood donor can go in and give blood and they in turn can sell it to any institution or people that need it. The Public Health Dept., under the present laws, cannot go in and inspect these laboratories, their method of operation, cleanliness to see that they are up to the standards to protect the people within the public health laws. It was stated in testimony that there have been cases of hepatitis throughout the state that they feel, because this blood is not tested by them or not having the opportunity to inspect, that this is perhaps where they come from. This is the purpose of this bill.

Adopted. Ordered to third reading.

SB 33, upgrading certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor. Ought to pass with amendment. Sen. S. Smith for the Joint Committee on Public Institutions and Finance.

Sen. S. SMITH: The amendment is printed, starting on page 10 of the Calendar. This bill is similar—we are dealing with a different group and a slightly different problem—as House Bill 30. It looks like a lot of money is being appropriated here because of all the figures and the adjustment of figures. In actuality it is going to cut the cost of the operation of Laconia State School of state money by \$170,000. It allows the addition of approximately 35 new personnel for the treatment of handicapped people at the Laconia State School. It also appropriates \$90,000 to bring three buildings at Laconia State School into conformity with the Life Safety Code. It also adds two positions, unclassified, into the administration to make for better administration at the school. It also changes the means by which the cost per patient is determined. In the past and currently, it is derived by a means of adding the total operating costs, dividing by the number of patient days, so that everybody is at the same cost. Under the new system, each individual patient will be costed, so that the chargebacks can be more firmly determined, if we are to get federal education funds, and we may not be able to, if this bill does not pass. There are approximately 94 patients who will be able to receive federal funds through the Medicaid Program. This bill, I think, in effect will cut state funds by \$170,000, but give much better care and treatment to the people at the Laconia State School. I hope the Senate will vote for it.

Amendment to SB 33

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT
upgrading professional staff requirements and certain
buildings at Laconia state school to federal intermediate
care facility standards and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Laconia State School, Position Changes. Amend RSA 93:1-a (supp) as inserted by 1969, 500:12 as amended by striking out the line reading

Deputy superintendent, Laconia state school 26,759 28,922''
 and inserting in appropriate alphabetical order the following:
 Assistant superintendent for administration
 and support, Laconia state school 22,500 25,000
 Assistant superintendent for professional
 care and treatment, Laconia state school 22,500 25,000
 Medical director, Laconia state school 27,000 31,000

2 Laconia State School, Assignment of Duties. Amend RSA 126-A by inserting after section 30 the following new section:

126-A:30-a—Duties. Subject to approval of the director of the division of mental health, the superintendent of the Laconia state school shall appoint a medical director, an assistant superintendent for professional care and treatment and an assistant superintendent for administration and support for the Laconia state school who shall serve at his pleasure and shall perform such duties as the superintendent shall assign. Their salaries shall be as prescribed in RSA 94:1-4.

3 Laconia State School, Position Changes. Amend 1975, 505:1 by striking out that portion identified as 1.05, 03, 04, 02, 01 and inserting in place thereof the following:

02 Laconia state school:		
01 Custodial care		
and maintenance:		
10 Permanent personal		
services	959,692	1,023,313
11 Salary of superintendent	25,216	25,216
12 Salary deputy superin-		
tendent	31,662	
13 Assistant superintendent		
for administration and		
support		22,500
20 Current expenses*	880,000	900,000
30 Equipment	40,100	12,900
50 Other personal services	3,500	3,500
62 Benefits	101,862	109,141
70 In-state travel	700	700
80 Out-of-state travel	500	500
90 Burials and ambulance		
service	3,000	3,500
91 Special maintenance		
projects F	27,500	
92 Renovation of Speare,		
Rice and Peterson		
buildings		90,000
Total	2,073,732	2,191,270
Estimated source of funds		
for custodial care and		
maintenance:		
06 Agency income	18,000	18,000
General Fund	2,055,732	2,173,270
Total	2,073,732	2,191,270

*Of the amount appropriated, \$15,000 shall be expended for beds, mattresses and ward furniture.

4 Laconia State School, Position Changes. Amend 1975, 505:1 by striking out that portion identified as 1.05, 03, 04, 02, 02 and inserting in place thereof the following:

02 Professional care and		
treatment:		
10 Permanent personal		
services	2,750,666	3,132,330
11 Medical director		31,000

12 Assistant superintendent for professional care and treatment		22,500	
20 Current expenses	51,600	51,600	
30 Equipment	4,850		
50 Other personal services	10,000	10,000	
62 Benefits	274,413	317,858	
70 In-State travel	1,200	1,200	
80 Out-of-state travel	150	150	
90 Repairs to eye glasses, etc.	1,500	1,500	
91 Medical expenses and consultation fees	21,500	21,500	
Total		3,115,879	3,589,638
Estimated source of funds for professional care and treatment:			
General fund		3,115,879	3,589,638
Total		3,115,879	3,589,638

5 Appropriation, Intermediate Care Facility, Mental Retardation. In addition to any other sums, the sum of \$938,886 is hereby appropriated for fiscal year 1977 to the department of health and welfare, division of welfare as a grant for the intermediate care facilities, mental retardation. Of this sum \$565,960 shall be from federal funds and \$372,926 from general funds of the state. The governor is authorized to draw his warrants for the sums hereby appropriated.

6 Effective Date. This act shall take effect July 1, 1976.

Sen. Downing is recorded as in favor of SB 33 in absentia.

Amendment adopted. Ordered to third reading.

SB 5, to make mental illness coverage under health and accident insurance optional for insured groups and subscribers. Ought to pass with amendment. Sen. Bergeron for the Select Committee on House Bill 727.

Sen. BERGERON: The original committee report came out ought to pass with amendment. However, we have done some additional work on it, and we would like to change the committee report to just ought to pass. We would like to withhold the amendment at this time. So we ask the members of the Senate to vote the amendment down. The Select Committee has done a considerable amount of work on the bill. We were pretty much ready to go, however, a couple of points have come up that we would like to consider a little further. We feel that this bill, which was the initial reason for the Special Session of the Legislature, is important enough to pursue. Therefore, the committee would like to vote the amendment down and come back with the original bill.

Sen. McLAUGHLIN: I rise at this time to oppose the amendment. It had its merit at one time, but in further discussing it, we find it is not doing what we wanted it to do. I would like us to pass on the bill in its original form, which in essence is saying that it is not mandatory, that every insurance company has to have it available for anyone who wants to buy it. So I urge you to vote against the amendment.

Sen. LAMONTAGNE: I am very happy that the members of the committee have suggested that we vote this amendment down. I support the idea of taking this amendment out.

Sen. MONIER: I support the committee in defeating this amendment.

Amendment lost.

Sen. BERGERON: we developed complications with the original bill through considerable amount of misinformation that had been received in committee at the time. What we are trying to accomplish here is to take care of two injustices. (1) The biggest obstacle and the biggest complaint that we have received is the idea of making any coverage mandatory for anyone, regardless of what it is, and the second is on the cost factor. The Select Committee has tried to cope with those problems. We tried this in a number of different ways. The original bill was submitted prior to the commencement of the Special Session. This, in itself, will resolve some of the problems. It is not a panacea; it is not the end result. It is just simply a vehicle, now, to continue this thing on the road for further amendment. We ask that in lieu of the Legislature telling people they will do something, we are saying, we are going to make it available, if you elect,

that is fine, and if you don't, that is fine. The decision is yours. I think that is the least we can do at this point. But it keeps the entire subject for which we were brought back into Special Session alive and on its way.

Ordered to third reading.

SB 35, relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities. Ought to pass. Sen. Downing for the Committee on Ways and Means and Administrative Affairs.

Sen. FOLEY: This bill would require first class restaurants to sell liquor on their patios. This is not mandatory but would be at the discretion of the Liquor Commission, and they would decide each case on its merit. At the present time first class hotels and motels are allowed to sell liquor on their patios, but a first class restaurant cannot do it. The good restaurants on the beaches and up around the lakes feel that this is discrimination, and they wanted to be sure they could now sell liquor on their patios. The second part of the bill allows theaters seating fifty or more on non-profit performing arts to sell one-half an hour before the performance and one-half an hour after the performance at their theaters. Last session we passed a bill which allowed a theater having a capacity of 500 people to do this. We find that there is only one theater in the state that would take advantage of it—the Palace Theater in Manchester. There is a non-profit performing arts theater in Peterborough and one in the Seacoast area, and others that will be performing during the summer. This is also at the discretion of the Liquor Commission. Sen. Downing and I both called the Liquor Commission, and they didn't send anybody to the hearing. They said they had no objection to the bill, and we move its passage.

Sen. SANBORN: I believe at the start you said that first class restaurants can't have a patio—

Sen. FOLEY: They can have a patio, but they can't sell exclusively liquor; you have to eat with it.

Sen. SANBORN: My question is basically what is the difference between a patio and a beer garden, because I know of first class restaurants that have what they call a beer garden, and they serve any kind of drinks out there, whether you have lunch out there or not.

Sen. FOLEY: All I know is that the first class restaurants along the beaches have been told that unless there has been a change in the law specifically that they are not allowed to serve liquor on their patios. I don't see any difference, either.

Sen. LAMONTAGNE: I am going to have to oppose **SB 35** because I feel that this means some of the people, especially on the beaches, will be selling liquor right on the sidewalk, if they just turn around and put a circle and make a claim. I think this certainly could be very harmful to the youth. We have reduced the age of drinking from 21 down to 18, and now if we turn around and have these patios down on the beaches that this is certainly going to be a sidewalk deal. I don't think it is good for the state of New Hampshire. Our liquor laws have been very very clean and have been operated very well, and in the last ten years we have been more lenient than we have ever been. I think this is going beyond what we should do.

Sen. BRADLEY: I do not rise in either support or opposition to this particular bill, but to state that this is the last license bill that I will vote for until I have heard from the Liquor Commission or someone else some sensible, rational, consistent policy as to who should have licenses and who shouldn't have licenses, and under what circumstances. This is another piece of patchwork in a hodgepodge system which is totally indefensible; there is no reason why it should be 50 people rather than any other number that I know about. There is no reason why this should apply to non-profit as opposed to profit making, that I know about. There is no reason why patios are any different than beer gardens. We pass these laws, it seems, only depending on who is able to get in here with a bill. We have turned down bowling alleys and we have let tennis clubs have them, and no one ever really says why we should give one to one and not to the other. There doesn't seem to be anything particularly wrong with this one, and therefore I am not going to vote against it. But it is the last one I am going to vote for until someone gives me some rational basis for passing on it.

Sen. FOLEY: I agree with Sen. Bradley that it is patchwork. You only put in a bill when a group requests you to. I do think that perhaps the liquor laws of this state should be looked at, and a good master plan be inaugurated. I would certainly be in favor of a study committee to do this. As far as the beaches becoming fenced in and having liquor all over the streets of Hampton Beach and the other beaches or up on the lakes, this bill specifically says that it is not permissive, that the Liquor Commission shall decide. I think there happen to be three good people who know better and would not do anything to hurt the Liquor Commission or the liquor in the state of New Hampshire. I certainly

would depend on them to know which first class restaurants—not just any place on the beach, but first-class restaurants—with good facilities should be allowed to do this.

Sen. Lamongne moved that **SB 35** be indefinitely postponed.

Sen. LAMONTAGNE: I believe that the intent of the 500 persons were for a special permit of the Liquor Commission was for the purpose of conventions. Now if you reduce the number from 500 down to 50, there can be 50 any and every evening, while state convention will happen probably once or twice in a year in some cities and towns. But if you turn around and reduce this amount to 50, this is going to happen every night. If you have these loud bands out on these patios, I think it is going to be a nuisance. Five hundred people has been operating very well, so why not leave well-enough alone.

Sen. S. SMITH: I rise in opposition to the motion and in favor of the bill. I would agree with Sen. BRADLEY that our liquor laws are a hodgepodge of where you can drink and where you can't. Most people do anywhere. I think that if you go to many places around this country and overseas, you see that liquor is sold in theaters, whether they have a capacity of 500 or less. I think the bill was originally passed as far as the theaters are concerned, as Sen. Foley indicated, to help the Palace Theater. That has a capacity of 500, but there may be only 50 people there and they are still allowed to have drinks before and after the performance. I don't see why we have to limit this to an arbitrary number of 500. It seems to me that most people are now able to handle themselves properly under these conditions in a first class restaurant or in a theater and also I think the Liquor Commission, if it doesn't work, can restrict them. This has nothing to do with conventions. It is just individuals going to theaters. I hope the Senate will defeat this motion and pass the bill.

Sen. CLAVEAU: I rise in opposition to the pending motion and in favor of the bill. In the 1961 Legislature in the House, I proposed legislation to liberalize the liquor laws. At one time in New Hampshire very few restaurants had liquor licenses, only hotels. Restaurants did not sell liquor on Sunday. I think we are in step now with our neighboring states, and I think this is a good bill, and I am in favor of it.

Sen. S. SMITH: Are you aware that in the last session of the Legislature that I introduced a bill on allowing dancing on Sunday nights in first class hotels, and do you think that the world has come to an end because of that?

Sen. CLAVEAU: I thought that was a good bill, and I supported it.

Roll call requested by Sen. Lamontagne, seconded by Sen. Poulsen.

The following senators voted yea: Senators Lamontagne, Poulsen, Gardner, Bergeron, Monier, McLaughlin, Sanborn, Provost and Brown.

The following senators voted nay: Senators Stephen W. Smith, Bradley, Blaisdell, Rock, Claveau, Roger A. Smith, Bossie, Preston and Foley.

Sen. Saggiotes abstained under Rule 42.

Result: yeas 9, nays 9.

Motion lost.

Division requested on third reading.

Result: yeas 9, nays 9.

Motion lost.

Sen. Rock moved that **SB 35** be laid on the table.

Adopted.

SUSPENSION OF RULES

Sen. Claveau moved that the rules be so far suspended as to allow the introduction of the committee report on **SB 28**.

Sen. CLAVEAU: Mopeds are motorized bicycles, two wheels or three wheels. It is not classified as a motorcycle, but it is motorized and can be used as a bicycle or it can be switched to a motor. It has a top speed of 30 miles per hour. The committee voted ought to pass because these are a very efficient means of transportation, and they have been used in Europe for years. The Department of Safety, the Highway Safety Agency were there. They had no objection to it. The bill states the rules under which mopeds will be operated. It reclassifies motorcycles and bicycles. The amendment is to allow the Registrar to make a special number plate for this moped so that it will not be stopped as a motorcycle.

Sen. BERGERON: What is the urgency of this? Why are you asking for a rules suspension, rather than going through advertising it in the Calendar?

Sen. JACOBSON: The Chair would state that it is at his request that we get as many bills reported in today as possible. There will be this and one other bill under this procedure.

Adopted.

SB 28, relative to the registration and operation of mopeds. Ought to pass with amendment. Sen. Claveau for the Committee on Transportation.

Sen. LAMONTAGNE: I wonder if you could tell us whether someone is going to be teaching some of our young people to drive?

Sen. CLAVEAU: This will have to be registered to go on the highway. There will be a \$3.00 registration fee. It will not be allowed on interstate highways. You will have to have an operator's license for a motorcycle or for this moped. You will have to learn so that you can get your license.

Sen. PROVOST: Why do they need another license? There are a lot of these on the roads in Manchester now, and they have licenses.

Sen. CLAVEAU: Now they will have to be licensed as a moped so that a police officer will know the difference. They will not be required to wear helmets for mopeds.

Sen. POULSEN: Did I understand you to say that they will have to have a motorcycle operator's license?

Sen. CLAVEAU: You will have to have an operator's license.

Sen. SANBORN: Did I understand you to say that these cannot be operated on the interstates?

Sen. CLAVEAU: Yes. It has a top speed of 30 miles per hour, and the minimum speed on an interstate highway is 45.

Sen. SANBORN: Do I understand this correctly that they do not require inspection?

Sen. CLAVEAU: Under the bill they do not have to be inspected.

Sen. SANBORN: If this is a type of motorized vehicle, it is going to be allowed on the highway and doesn't require inspection, doesn't that seem strange?

Sen. CLAVEAU: There is no law at the present time with respect to bicycles and motorized bicycles. This will define what a motorized bicycle is.

Sen. SANBORN: I notice in here that the words "operator's license" is used. Can you give me a definition of "operator's license"? I know that many of us are worried that this might be 8, 9, or 10 year olds.

Sen. CLAVEAU: It would be a license to operate a motor vehicle, which would include automobiles, trucks up to a ton-and-a-half, except a motorcycle. You could operate a moped with an operator's license.

Sen. SANBORN: You mean that to operate one of these you have to have a valid motor vehicle operator's license, meaning you have to be 16 years of age or older?

Sen. CLAVEAU: That is right.

AMENDMENT TO SB 28

Amend the bill by striking out section 18 and inserting in place thereof the following:

18 Number plates for Mopeds, Amend RSA 260 by inserting after section 11-b the following new section:

260:11-c Number Plates for Mopeds. The director shall furnish without charge to each person whose moped is registered a number plate of a suitable design which design shall be different from the design of motorcycle number plates.

19 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to third reading.

COMMITTEE REPORT

SB 39, requiring credit card companies to notify credit card holders whenever their records are disclosed to any federal or investigatory agency under court order or subpoena. Ought to pass with amendment. Sen. Bossie for the Committee on Energy and Consumer Affairs.

Sen. BOSSIE: This amendment was proposed by Sen. Jacobson and provides that credit cards cannot be cancelled except when they are over 180 days overdue or the alternative, if they are overdue accounts, it has to be at least 90 days. The committee felt that this was a decent proposal, and we would ask the Senate to concur in this amendment.

Sen. ROCK: In looking at the amendment starting on page 5-6, and as the sponsor of the original bill, it does seem that the amendment, while it could be considered germane, because it deals with credit cards, strays quite afield from the original intention of the bill which had to do with federal invasion of privacy of the credit card information. Did the committee have any hearings or testimony from the public that might be effected by this kind of amendment at all or was the hearing mostly on the original bill?

Sen. BOSSIE: Certainly the hearing was mostly on the original bill. As you know, our committee from time to time has had testimony presented to it on the subject matter of the amendment. The bill itself deals with credit cards, and I think the amendment is quite germane, so I don't feel personally that there would be any problem.

Sen. ROCK: I am not arguing the germaneness of it. I think my concern is that it is a certainly far-reaching amendment, and the public had very little chance to make input into the bill as it would pertain to this amendment or to the many companies that would be affected and the way in which they would be affected by this amendment. As a matter of fact, until 11:00 this morning when the calendars came out, I don't think anyone had really seen the amendment, outside the committee members.

Sen. BOSSIE: Notwithstanding that fact, this has been a problem in the state of New Hampshire. We have a substantial number of national credit cards, either oil products or any other product you can imagine, that have been doing this. They have been rooking their cards without proper notice, and in many instances it is because the individuals have gone on vacation, have not gotten their mail, and when they get back, they are put on some sort of a black list because they didn't pay their bill in time. That just is not fair. The purpose of your bill is for fairness. That is all we are interested in.

Sen. ROCK: I hope you understand that I am not debating the merits of the amendment, but my question is, does the committee feel comfortable that they are introducing an amendment at this time with such short notice, especially to those who will be affected by the amendment?

Sen. BOSSIE: It is a common prerogative of any committee that has a bill of this type to put any amendment it wishes which in their opinion is germane, and this is.

Sen. BERGERON: I can understand the situation where you have someone who uses a credit card, and they are fortunate enough to leave the country for some period of time. As far as that aspect is concerned, I think we should take a look at it. However, the way the amendment goes, I have a severe reservation that once again we may be subsidizing the professional deadbeat. I don't know why we should legislate that the credit card companies have to subsidize these guys.

Sen. BOSSIE: I am sure that a number of your constituents might be unaware of the fact that national credit card companies impose a very high interest rate on you, without your even knowing it. So if you are a month overdue, and I know of an instance when a credit company imposed a \$3.00 charge on an individual whenever they used their American Express card for an airline ticket. This is for insurance. This individual was charged, and he refused to pay it. As a result, he was sent a notice that unless you pay it, your card is going to be discontinued.

Sen. BERGERON: It is my understanding that in that particular instance, that is an optional basis, and you have to elect it before it goes on.

Sen. BOSSIE: This was reported to me, and I have no idea.

Sen. LAMONTAGNE: I am wondering about some of these credit cards. Some of these credit cards have a limit of, say, \$300. Having this amendment adopted without having a public hearing I think is very dangerous. I think that, unless we don't refer this to some kind of a study committee, that we should at least have a public hearing so that the people can be heard. Because I feel that not only will the people who give the credit card will get hurt, but also our own people will get hurt. I think this should have a public hearing, if we are not going to send it to a study committee.

Sen. JACOBSON: I rise in support of the amendment. The credit cards have mushroomed, and they are largely unregulated by state regulations. They now charge an 18 percent rate which is one and one-half percent per month. There is no regulation to that, except that they cannot charge up to 42 percent. They now charge interest on your account after 25 days, which would make it possible to not be able to even have an opportunity to pay the bill before you are charged interest. This bill does nothing at all to what Sen. Lamontagne was referring to, which is a credit line on the Mastercharge accounts or on American Express or Bank Americard. It has nothing to do with that at all. All this bill does is that if they want to charge 18 percent per annum interest, then they cannot also arbitrarily cancel the credit card privilege as they do now. Whenever they feel they want to cancel the privilege of the credit card holder, they can do it. This bill says that if they are going to charge 18 percent interest, then you have to allow these people up to \$250 within 90 days. \$250 is the lowest Mastercharge credit line at the present time. Mastercharge will not be bothered by this, as far as I know, because they allow you to pay five percent of your bill per month, so you are not in that kind of a position as you are with the oil company cards. If you miss a month by them, they can cut you right off. If you are sick and you cannot pay your bill for a month or two, they can cut you off and you lose your privilege and they send it to a collection division.

There is one case I just had in which the party received on January 15 a cancellation notice of the Texaco Oil Company. They had paid part of their bill on January 6. It was deposited in the bank in Richmond, Virginia on January 9. On January 15 they got a cancellation. These people are not professional deadbeats. The professional deadbeats are generally already identified. So what is happening here is that the consumer, the person who is paying the interest of 18 per cent, on which there is no regulation on which the oil companies and any other companies need to even report how much the interest they are charging, and you have to go around and find it out for yourself, in order for you to take it off on your income tax. This simply protects the consumer to that degree. With respect to a hearing, if this amendment is adopted, it will go over to the House with the amendment, as a bill, and there will be a public hearing over there. So they will have the opportunity. This is really essentially to protect the credit card holder against being arbitrarily being cancelled out.

Sen. BERGERON: You run a credit card company, and you have issued a credit card to me. I have gone to a filling station, and I have charged \$25 worth of gas. You have chased me for 30 days; you have chased me for 60 days; you have chased me for 90 days and what we are trying to tell you is you can't do a thing to me. Already I have gotten in to you for \$25, and I don't care what the amount is, and now you are going to allow me additional time to build up to the \$250. You could be forever chasing me.

Sen. JACOBSON: That is wrong, because if I were in that position, I could also turn it over to my collection division on the first day.

Sen. BERGERON: But you cannot cancel my card.

Sen. JACOBSON: That is right; that is all this deals with.

Sen. LAMONTAGNE: Could you tell us that this amendment would not hurt the individual who now has a credit card that possibly it would make it harder for them to get one? Don't you feel that the person who is applying for a credit card, that it would make it even harder, because he would have to be investigated regarding his credit?

Sen. JACOBSON: Presumably the companies who issue these cards already investigate before they issue a card. You have to fill out an application. I made one out for Exxon, and it was 90 days before I got mine.

Sen. ROCK: Dealing with the finance charges and your reference to the fact that some companies can charge you up to 18 per cent, is it not a fact that when you make the application for the credit card and sign the application and in periodic notices on your bill that they tell you the finance charge, that this is what you are going to pay if you don't pay the bill?

Sen. JACOBSON: I believe it is a fact. I am not sure that the credit card holders that were credit card holders prior to the imposition of the 18 percent charge signed any documents regarding that. But it may be that new applicants sign, accepting that.

Sen. ROCK: Would you believe me when I tell you that when you do have a bill that goes beyond the 25 or 30 days and begins to accumulate finance charges, that those finance charges must by law be spelled out in a separate box on the statement to show you what the finance charge is so that you know exactly what the charge is?

Sen. JACOBSON: If you tell me that, I will believe it, but I don't understand what the point is.

Sen. ROCK: Sharing some of your concerns about credit card companies and feeling that this may well be a bill that should have full consideration by the Senate, don't you think that acting as responsible Senators that we would be doing a better job of holding that responsibility to hold that hearing ourselves, rather than shunt that responsibility onto another body, while we have the time to have the hearing on this part of the bill?

Sen. JACOBSON: All I can say is that it is a long established practice legitimized by the rules of the Senate, by rules of any legislative body, that amendments can be proposed. That is the reason why we have bicameral legislation, so that whatever is proposed by the body of one house has the review by the body of the other house.

Sen. BROWN: Although I would agree with you perhaps the companies should give the consumer a little more time than they do before they cancel their card, you have here 180 days. That is six months. Don't you think that is a little too long?

Sen. JACOBSON: One of the reasons for that is that the oil companies have gotten into a computer setup, and that computer is often times behind by one or two months. I know of instances where people have actually paid the bill and the computer is telling them they are cancelling their card, so when they go to the service station the next time, and the guy looks up in his little black book, #857934, you are in trouble. If you are out with your wife or your best girl, and they take your card, it may be a little embarrassing.

Sen. BROWN: In relation to the hypothetical case that Sen. Bergeron just cited, your answer to him was that even after the thirty days, they can go after you for the

money, but your card is not cancelled, so you are still holding that card so that even though they are after you for that \$25 from the first month, you can run up another \$25 and another \$25 while they are trying to get you for the first, is that not correct?

Sen. JACOBSON: Theoretically that is probably correct. But once you get into that problem under the collection part, you get a bad credit rating, and then you are in trouble further on that one.

Sen. BROWN: Although that may be the case, you are hurting yourself credit wise, that is not helping the company that has sold you the product to collect their money which they are justly entitled to. And is not the person who has the card running into more debt to the company, and making it more difficult, so instead of being out the \$25, they are going to be out \$75?

Sen. JACOBSON: I can understand that, but what confuses me a little bit is the sympathy that is being exuded for the oil companies and other companies when the poor people are the people who often times are the ones who are suffering under this kind of arbitrary handling of credit cards. After all, it is the oil companies who originally pushed the credit cards. I have received credit cards which I never asked for.

Sen. BROWN: You mentioned a second ago that you are amazed at the sympathy shown toward the credit card companies. Would you believe me if I told you that I have been in business for 35 years, and I have had a lot of bad debts that I have tried to collect, and the laws of this state are against me and for the poor people, so-called, that don't want to pay me after hiring me?

Sen. JACOBSON: I hear the other side—the consumer says they can attach your property on court notice. I have had people complaining why they can do that.

Sen. POULSEN: I realize you are defending the common man. Do you see any way in which we are leading the poor creditor into a pitfall? He already is up to his limit, the company would ordinarily shut off his credit. Instead he knows he has 180 days; why doesn't he go wild and buy himself a moped and everything? Are we not in fact leading him into a pitfall?

Sen. JACOBSON: You can't get into it for any more than \$250 because in 90 days the computer will have caught up and they can cancel the card.

Sen. Lamontagne moved that **SB 39** with amendment be recommitted to the Committee on Energy and Consumer Affairs.

Sen. LAMONTAGNE: I feel that by recommitting this back to committee, there is plenty of time for the committee to hold a public hearing, and I think this is important. I think many questions have come up here today, and I am worried about these people who have credit cards, that the companies might restrict them in getting a credit card. Therefore a public hearing would be more just, and at the same time we would be able to iron the amendment that is now before us, before we vote on this as it has been presented to us.

Sen. JACOBSON: I have had the happy privilege of being your distinguished colleague here for four terms. If my memory serves me correctly, I believe that on a rare occasion you have brought in an amendment that hasn't had a public hearing. Is that correct?

Sen. LAMONTAGNE: You are absolutely correct, and I expect to introduce more amendments. But at this time, I have never refused anyone who wanted to take any matters that I have brought up as an amendment referred to a committee for a hearing. I have never in the 22 years that I have been here, even without missing a day. I think this is important and should be heard.

Sen. JACOBSON: The reason why no Senator asked to recommit on the basis of an amendment was that they understood that you were truly in the public interest?

Sen. LAMONTAGNE: I have always been truly in the public interest, and that is why I am asking for this bill to have a hearing.

Sen. PRESTON: I want to support and urge you to support Sen. Lamontagne's motion. I am impressed with the concern we have to give the public an opportunity to express themselves on such a very important bill. As recently as yesterday I asked for the same privilege on a bill that I consider much more important, **SB 41**, having to do with permitting placement of persons in need of supervision in certain shelter care facilities. If I make such a motion within the next hour or so, I hope that I get the same support.

Sen. JACOBSON: On the question of recommitment of **SB 41**, how did you vote?

Sen. LAMONTAGNE: You will have to look at the record.

Sen. ROCK: I rise in support of the pending motion to recommit for further hearing. As the sponsor of the original Senate bill that we are hearing now, I have some problems with the far-reaching effects of this amendment. I think it should be clear to

the members of the Senate that while some members may have received a credit card for which they did not apply, it is my further understanding that that method of distributing credit cards has been changed by statute, and further there have been certain courtesy cards that have been mailed to certain distinguished members of the Senate apparently, which is not a credit card. But when someone receives a credit card, whether they ask for it or not, no one can make you use a credit card. That is your choice. All of the credit cards that I possess clearly delineate what the interest rate is and how the finance charges are assessed. Further, I see some serious problems with this amendment where if a person had an Exxon card, a Gulf card, an Arco card, a Citgo card, a Philipps 66 card and a Getty's card, he could charge six times \$249 for 180 days, and find himself in serious debt with no ability for the six companies to pull back the credit favors that they have extended this person. I seriously think that the ramifications of this amendment are far reaching enough that they do deserve a study. I would prefer to see it studied here so that we would make correct decisions for the benefit of all segments of our constituents, rather than send on legislation that we didn't fully consider or understand, by saying that we will share that responsibility with the House.

Sen. JACOBSON: I am going to rise in support of the motion of Sen. Lamontagne on the basis of the public interest. We will be taking up **SB 41** in a few moments, and on the basis of that I hope that we can have full and complete support of the Senate to also recommit **SB 41** so that a full and public hearing may be held on the amendment that has been offered because this reaches far beyond the significance to credit cards. The credit card issue is miniscule when compared to the problem of our children. Surely I hope that all of you will also support recommitment of **SB 41**. In respect to the issue that was raised about not bringing a bill out again, Sen. Bradley was one of the Senators who spoke very vehemently against keeping bills in committee, so that I know that he is a very honorable man. I hope that we can do that on both bills.

Sen. Provost moved the previous question, seconded by Sen. Lamontagne.

Adopted.

Motion adopted.

SPECIAL ORDER 11:01

SB 41, permitting the placement of persons in need of supervision in certain shelter care facilities.

Question on adoption of amendment as offered by Sen. Monier.

Sen. Bradley moved that **SB 41** be recommitted to Judiciary.

Sen. BRADLEY: I think Sen. Rock and Sen. Lamontagne have eloquently stated the reasons, with respect to another bill, why this particular amendment ought to go back to the committee for a public hearing. I renew my pledge to the Senate that I will use whatever influence I have as the Chairman to see that the bill is heard and brought back in a timely fashion.

Sen. LAMONTAGNE: I rise in support, because I feel there is great importance in this bill, and I think it should have a public hearing.

Sen. MONIER: Much to the surprise, perhaps, of the opponents of my amendment, I have absolutely no objections to recommitting it to Judiciary, any more than I had objections to the amendment being brought in from **SB 41**. I think the Senate should recognize that this is not a parliamentary maneuver that you squeezed anybody into. I would like this Senate to remember something. We had one day of hearings. There was no way the world we could have heard all of these amendments at that particular time. I have absolutely no objections to **SB 41** going back to be heard in front of the Judiciary. I would add that you should be reminded that we have already heard this in public hearing in 1975 when **SB 18** was passed. The subject matter is exactly the same.

Adopted.

Rule 44

Sen. Lamontagne spoke under Rule 44. Sen. Sanborn presiding.

SPECIAL ORDER 11:02

SB 26, requiring persons convicted of driving while under the influence of intoxicating liquors on controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program. Question being on committee report to refer to interim study.

Sen. JACOBSON: I sponsored this bill on the behalf of several groups of people who are specifically and specially interested in highway safety. During the years that I have been down in the Senate I have taken a special interest in the question of highway safety because I believe that this is one of our most important areas of concern that we should have because every year hundreds of people are killed on the highways, thousands are injured, and millions of dollars of property damage occur. In 1974 there was instituted the ASAP program, which was a federally funded program. Its basic intention was to bring about re-training programs for persons convicted of driving while intoxicated. That program has had considerable success. According to the 1974 figures, the re-arrest rate for DWI has been one-third less for those who attended school than for those who did not attend school. This means that approximately 125 drivers did not return and have a second offense of DWI in that period of time. This could mean that one, two, three, or ten or twelve, I do not know how many, lives have been saved as a result of that. I don't know how anyone can measure the value of one life. That is why I think that **SB 26** is of greater importance than we may, on surface analysis, believe it to be. There were some questions that were raised with respect to it. I would like to propose that the present motion be defeated, that it be placed on second reading and laid on the table and an amendment prepared. We would like to reduce it from sixty days to fifty days that you can get your license back if you go to retraining school. Then I would also like to make it clear that it is not \$50.44 that is charged. It is an amount not to exceed \$50. If the person is unable to pay the \$50, the fee may be waived by the Director of Motor Vehicles. That is in the bill at the present time. This will be funded by the school program, so it is not an additional cost to the state. In 1971, 214 people were killed on the highways of New Hampshire, when we did not have the ASAP program. In 1975 when we did have the ASAP program, 151 people were killed. I cannot draw a direct connection between the two, except to say that all of the evidence is in that approximately 50 per cent of all highway fatalities have drinking related to the accident. If that is true, that could mean as many as 25 to 30 lives were saved, possibly. But if even only one life were saved and the tragedy that accompanies it to members of the families, whether it is a young son or a young daughter or whether it is a father or a mother. I think it is important to bear in mind that this is a program that has value. The reason why it is here today is that if we do not do something with this program, the program expires on July 1. Then it will return back to what it was prior, which means that every DWI will have a mandatory exclusion from driving from 60 days to two years, and the average is 90 days. Under this kind of program, a person who goes to school will get 50 days. If they go to school they can get their license back ten days earlier than the minimum. I met with the people today and the proposal was that we compromise and reduce the number of days because questions were asked about that.

Sen. BRADLEY: If we could spend \$150,000 to create the demand for people to buy the booze which causes them to become intoxicated and convicted of DWI, don't you think it is reasonable for us to pass something like this to take care of the consequences?

Sen. JACOBSON: I agree with you one hundred percent. You will remember that in 1918 or 1919, that we passed the Eighteenth Amendment in which we were going to take booze away from everybody. It was an absolutely unworkable situation. It created more problems than it solved. I don't think we can restrict the booze, but I think we can say to the people that you should not booze when you are on the highway and if they make the error, then they ought to have to go to school to see the error of their ways. I think this is in the interest of everybody—in the interest of the DWI, it is in the interest of the innocent citizens driving on the highway. Do you know that upwards of 5,000 people in this country are killed every year, who are totally innocent, in automobile fatalities? If 50 per cent of them are alcohol related, that would make it 2,500, and we surely ought to be able to do this much to possibly reduce the accident rate.

Sen. Monier moved that **SB 26** be Laid on the Table.

Adopted.

SPECIAL ORDER 11:03

SB 22, to permit the liquor commission to purchase land in Manchester for locating a state liquor store and making an appropriation therefor.

Question on adoption of Committee amendment.

Amendment to **SB 22**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

permitting the liquor commission to purchase land
in Manchester for locating a state liquor
store, providing for emergency repairs in
the boiler room at the New Hampshire youth development
center and making appropriations therefor

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 State Liquor Store. In addition to other state liquor stores established by the state liquor commission under RSA 177:1, the commission is directed to purchase property in the city of Manchester and either construct or renovate any existing structures on said property and equip in the name of the state, a state liquor store in said city. The operation of the store shall be governed by the provision of RSA 177.

Further amend the bill by striking out section 4 and inserting in place thereof the following:

4 Emergency Repairs for New Hampshire Youth Development Center Boiler Room. Amend 1975, 504:1, IX, (f) by striking out said subparagraph and inserting in place thereof the following:

(f) Install catwalk in boiler house, new distribution panel and safety controls for No. 2 and 3 boilers and make emergency repairs to No. 2 and 3 boilerwalls.

\$30,000*

5 Bond Authorization Total. Amend 1975, 504:7 as amended by 1976, 1:2 by striking out said section and inserting in place thereof the following:

504:7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2 and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$27,882,286 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for the purposes of section 1, subparagraphs IX, (d), (e), and (f), subparagraph X, (d)-(7), (8) and (10), paragraph XVI, and section 3 (furnishings and equipment) of this act shall have a maturity date of 5 years from date of issue; the project detailed in subparagraph VIII, (a) shall be financed by a 4-year note; and the bonds issued for the purposes of section 3 (construction) of this act shall have a maturity date of 30 years from the date of issue.

6 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Sen. Preston moved the adoption of a floor amendment.

Sen. PRESTON: The Senators have on their desks an amendment to **SB 22**. In the last session in the public Works budget, there monies appropriated for the construction of a Troop A/Substation building down in Rockingham County, but a footnote was added that would have restricted the construction of the Troop A facility to, I think it was, within five miles of 101 and 125. The Department of Safety, and the Department of Public Works and Highways have reviewed these sites and come out with the following conclusions: that to build such a site down there would not serve the population that they think could be served in another area, principally in areas that would be closer to the Portsmouth-Dover-Somersworth areas where 160,000 people or 20 percent of the total population of the state live. The traffic counts alone in the location footnoted in the budget were some 10 million cars per year travel past the proposed Newington site and only one-fifth of that or 2 million cars per year travel past the state owned land on 101. The present sites that the state Department of Public Works Special Services Division reviewed with Colonel Doyon and others were deemed undesirable by staff members. Most of the land was completely unacceptable for building purposes due to swamp conditions, rock and ledge conditions and general configurations of the land. They also cited that 101 is notoriously known for fatalities and that for the state to construct something on this stretch of highway would be counter-productive to the very mission of the department, which is to assure that all precautions have been taken and to insure the safety of the motoring public. There is some state-owned land under consideration in Newington. It is level, highly suitable for the building they have in mind, and the building would offer the highest visibility to the motoring public as it proceeded both north and south, and this would be recommended by the Department of Public Works and the Department of Safety.

Troop A is just an imaginary line and can be changed by the Director at any time. Troop A headquarters, to put it geographically in the middle of Troop A with modern technologies and radios that are now in all of the cruisers is totally unnecessary. There is no question there is a need for such a facility closer to the Salem-Londonderry area, and I understand that is to be proposed in the next session. There is a letter here from Richard M. Flynn, the Commissioner, which I might read. I feel our determination is to build this where it was footnoted, where in my mind it won't serve all of the people, or to construct this station now where it will serve the bulk of the people and at a later date build another one in a population area. This letter from Commissioner Flynn was sent to Sen. Sanborn. It states: "This letter is to confirm our conversation of yesterday relative to the construction of additional Department of Safety buildings throughout the state. These proposed buildings would not only serve as a Troop Station, but will also offer most of our services to the general public such as registrations, hearings, licensing, etc. As you are aware, I have made a request to remove the footnote from the present Capital Budget which dictates the location of our first such building to be built within a five mile radius of the junction of 101 and 125. If the Legislature responds to our request, then we plan to construct this first building on state-owned land located in the Town of Newington. My Capital Budget request for the next biennium will include a request for funds for the second such building to be constructed in the Londonderry-Salem area. I am requesting these funds to be included in the Capital Budget for Fiscal 1977. I have already discussed these plans at two staff meetings and have directed Deputy Commissioner Robert Whaland to begin preliminary discussion with the Department of Public Works and Highways for the purpose of arriving at construction costs. I hope that you will concur with our decision and would respectfully solicit your support for both the elimination of the footnote in the present Capital Budget and for your support of our plans for construction of another building in the Londonderry area."

I suggest, why not allow those people that we have as Commissioners in various departments of Public Works and Highways to objectively make a determination where the best place would be to put this building to serve the most people. It was also cited that if they can house other state facilities within this area, it would save Seacoast residents and others from traveling to Concord. I would prevent the costly travel and transportation of equipment to various licensing areas where four officers now serve that area, and they estimate the annual savings on these two items would approximate \$35,000-\$50,000 per year. I think by doing so, you will be accommodating the public convenience, you will be bringing the government services closer to the people where they will be able to obtain not only license plates but the services of other government offices, and as unimportant as this might seem to those of you in the North Country, it is very important to the state, and I think it would be good business judgment on our part to accommodate the request of the Commissioner and the Department of Public Works and Highways by voting for this amendment as it is attached to SB 22.

Sen. BERGERON: I rise in support of the pending amendment. I cannot stress too strongly the words as spoken by Sen. Preston. What this means to people in the Seacoast area is simply a convenience. It means that a man does not have to get into his automobile and drive 45 miles to obtain his license plates; he doesn't have to drive 45 miles and take a day off from his job to attend a hearing; he will simply be able to get into his automobile, go out practically his back door onto the turnpike, seven minutes down to the site of the new administration building. He no longer will be required to appear at anyplace at any designated time, in any designated day of the month to get his license, his testing or his picture. It is a matter of convenience. It will be a full-fledged facility, something we have not seen or had in the Seacoast area. I think it was a shame when Troop A was moved out of their existing quarters into an apartment building. Here we have a chance to rectify the situation. We have a chance to put a much-needed building in an area that will be utilized. I strongly recommend the adoption of the amendment.

Sen. BROWN: I rise in opposition to the proposed amendment to SB 22. That footnote was put into the Capital Budget for a purpose. That purpose was that the people in the middle and western part of Rockingham County have felt that this facility which they have never had, and if one was going up, it should be in their section of the state because of the wide population in Derry, Salem, etc. They came to a compromise, and the compromise was to put it within a five mile radius of 101 and 125, and that would serve all the people of Rockingham County and Troop A, which does go over into the southern part of Strafford County. For years Troop A was stationed on what we call the Exeter-Hampton Road. About a year ago they made a move to Stratham, which was only five miles away from where they had been for many years. If the Commissioner at

that time thought it was so important to have it up in Newington, why didn't it go to Newington? I am sure there are ample stores that they could have leased. They are leasing the place in Stratham now. There is, on Route 125, state-owned land, approximately 25 acres, where the Public Works and Highways maintenance shed is now. Sen. Bergeron stated that the people in that area will have to go 45 miles if this facility is placed in the Epping area. To go down Route 4 and down 125, I venture to say is not ten miles, and if you put it over in Newington, what about the people in Salem and Derry. You talk about 45 miles; I venture to say it is more than 45 miles. Because of these reasons, I believe this amendment should be defeated.

Sen. CLAVEAU: Wouldn't it be easier for the people of Derry and Salem to go to Nashua instead of going to Epping?

Sen. BROWN: That I cannot say. I can state that it was their strong desire in the last session, and the members of the House that represent the middle of Rockingham County and western Rockingham County because of the press put on by their people and the desires of their people to have the facility there. They thought it was necessary to be there.

Sen. CLAVEAU: Is it shorter to go from Salem and Derry to Nashua than it is to go to Epping?

Sen. BROWN: No, I don't believe so.

Sen. BERGERON: How far is it from Rochester to Concord? 45 miles. That is what I was referring to. Would you believe the people in the Seacoast area will not go to Raymond or Epping, when it is much more convenient for them to come directly to Concord than it is to travel the back roads to Raymond and Epping?

Sen. BROWN: I cannot quite buy that. The reason is that I have traveled that myself and Route 4 to the Lee Circle, where 4 and 125 come together and from the circle, it is a short way down 125 to the proposed site. I don't believe this. In my opinion it is much shorter in time and miles to go from Rochester or Portsmouth to the proposed location there than it is to come to Concord. How far do you think it is from Salem to Derry to Concord? Granted they have a good road, but you have a good road also.

Sen. BERGERON: Would we be doing a much better service to the people of both southern Rockingham County or the area you are concerned with and the people of Strafford County by giving them two units, full facilities, as opposed to one facility in the center of nowhere that no one will really use?

Sen. BROWN: I will have to admit that if you had a facility in both ends of Troop A section, that perhaps would be a solution. But a letter from Commissioner Flynn saying that this would be done, I am sorry but the Legislature has to approve it, and it could be twenty years before it could be done, if not longer.

Sen. FOLEY: I rise in support of Sen. Preston's amendment. We are here to serve the people. Twenty percent of all the people in the state of New Hampshire live in the Somersworth-Rochester-Portsmouth-Dover area, which would be served directly by this new building. In addition, I am sure that if this goes through and it is put there in the Capital Budget, I will be very happy to go along, if I am here, and I am sure the Seacoast area people will be very happy to go along with the Capital improvement request for the funds for the Londonderry-Salem area, which would take care of the other section of the county. I feel that this is a good move. The Safety people want it, the Public Works people want it. They feel it should be in Newington. The land is already there, also owned by the state, and I feel that this amendment would be a good thing for the people. That is why I am for it.

Amendment to SB 22

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefor; and relative to the location of the troop A/substation of the state police.

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Removal of Limitation on Location of Troop A/Substation. Amend 1975, 5404:1, VI (b) by striking out said subparagraph and inserting in place thereof the following: (b) State Police and Motor Vehicles. Working drawings and construction of Troop A/substation building of 3,000 square feet approximately, to include parking area and

facilities described in 1975 *Proposed Capital Improvement Program*, Page XIII-b-1, as prepared and published by the department of public works and highways.

\$164,000

7 Effective Date. This act shall take effect upon its passage.

Roll call requested by Sen. Bergeron, seconded by Sen. Brown.

The following senators voted yea: Senators Poulsen, Gardner, Bradley, Bergeron, Blaisdell, Claveau, Provost, Bossie, Preston and Foley.

The following senators voted nay: Senators Stephen W. Smith, Jacobson, Monier, Rock, McLaughlin and Brown.

Result: yeas 10, nays 6.

Amendment adopted. Ordered to third reading.

Sen. Bossie is recorded as follows: I would like to go on record saying that I hope the liquor commission in establishing a new store in Manchester would take every opportunity to discuss the location with the local board of mayor and aldermen. It is important that the municipality which is involved, be a part of this.

TAKEN FROM THE TABLE

Sen. Preston moved that Senate Resolution No. 1 be taken from the table.

Adopted.

Sen. Preston moved the adoption of the resolution.

Sen. PRESTON: We had the printed matter before us this morning. This would request a moratorium be implemented regarding the United States Coast Guard's assumption of jurisdiction over certain waters of the state of New Hampshire.

Senate Resolution No. 1

relative to a moratorium of the Coast Guard's
assumption of concurrent jurisdiction over
certain waters and waterways of the state.

Whereas, the United States Coast Guard has suddenly assumed jurisdiction over certain bodies of water lying within the sovereign state of New Hampshire; and

Whereas, this assumed jurisdiction appears to be predicated more on historical usage or intent for the usage of the bodies of water involved, namely Lakes Winnepesaukee and Winnisquam and the Merrimack River, since the waters are not now in fact navigable from the lakes to the sea; and

Whereas, the concurrent jurisdiction of the United States Coast Guard and the state of New Hampshire will not enhance the boating safety program but on the contrary shall reduce the state's ability to fund its present program and lessen the state's effectiveness in maintaining safe boating; and

Whereas, the state of New Hampshire zealously guards its sovereign states rights and fervently defends its rights to retain exclusive control over the water, waterways and land lying wholly within the boundaries of said sovereign state; and

Whereas the United States Congressional Delegation from the state of New Hampshire requires additional time to prepare and pass legislation to restore a state's sovereign control over any body of water lying entirely within the jurisdiction of a state when said body of water is not in fact navigable to the sea or is not utilized as the sole route between states in interstate commerce;

Now, Therefore Be It Resolved that we the Senate of the state of New Hampshire request the President of the United States to implement a moratorium of the United States Coast Guard's assumption of concurrent jurisdiction over certain waters and waterways of the state of New Hampshire so as to allow time for the enactment of corrective legislation;

Further Be It Resolved that a copy of this resolution be transmitted to the President of the United States.

Adopted.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

HCR No. 1, relative to supporting the re-enactment of the general revenue sharing program. Referred to Rules and Resolutions.

Sen. Preston moved that the Senate adjourn from the early session, that the business

of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 13, at 11:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets.

SB 9, increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor.

SB 34, to permit the taking of depositions by means of video tape recordings.

SB 29, relative to licensing of diagnostic or treatment facilities.

SB 33, upgrading professional staff requirements and certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor.

SB 5, to make mental illness coverage under health and accident insurance optional for insured groups and subscribers.

SB 28, relative to the registration and operation of mopeds.

SB 22, permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefor; and relative to the cation of the troop A/substation of the state police.

Adopted.

Sen. Poulsen moved that the Senate adjourn at 5:15.

Adopted.

Tuesday, 13 April 1976

The Senate met at 11:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

May the joy which is to be revealed to us this coming Easter, raise within our hearts and minds, the greatest gift of all that the Almighty God gave to us—love of mankind! Let us use this gift during this holy week which was intended for you and I, reviewing our individual faults and failings, going forward, secure in the knowledge that we have, and will make, decisions that will strengthen and help our future lives. We humbly ask thy pardon for our inconsistencies and also ask for thy blessings and peace within us! Amen.

Miss Kelley Ann Hartigan led the Pledge of Allegiance.

RULES COMMITTEE REPORT

Sen. Ferdinando moved that the Senate approve the recommendation of the Rules Committee for the introduction of Senate Bills No. 48, 49, 50, 51, 52, 53, 54, 55, and 56.

Sen. FERDINANDO: The Rules Committee felt that these were reasonably good bills. We hope that you adopt these bills at this time.

Sen. BRADLEY: All the rhetoric that we have heard all along is that bills should only be considered that are an emergency, and I know that I have told people that I can't get bills in, even though in some cases I consider them relatively important, because deadlines have passed and because of the general feeling of the Senate that things ought to be an emergency. As you know, my position is that there is no requirement that bills have to be an emergency and that that is a self-imposed requirement. Does this mean

that we have opened this thing up again and that anybody who has a bill of equal importance to these ought to try to get it in?

Sen. FERDINANDO: The Rules Committee has been relaxed to the point that they have accepted people's bills with the understanding that obviously Senator A thought that bill was important to Senator A. It may not be important to you or to other members of the Senate. But knowing that the Senate was trying to limit the bills, it must have been important to him to submit it. For that reason the Rules Committee was generous in approving these particular bills at this time.

Sen. BRADLEY: Can you enlighten us as to which of these bills are requests of agencies of state government?

Sen. FERDINANDO: I don't know. Some of them may be and some may not be.

Sen. BRADLEY: That was not brought out in the testimony before the Rules Committee?

Sen. FERDINANDO: A few of them came from the Governor's office. I am not sure which ones they are.

Sen. BOSSIE: When might we expect this to stop? This is a special session; we are going to be here until November just doing these bills which don't look important to me. When is the Rules Committee going to say no more bills?

Sen. FERDINANDO: That is a good question. The problem that we had is once we started opening this up, it is very difficult to refuse any particular Senator's request. The Rules Committee was in the difficult position of saying no to you after we said yes to someone else. Hopefully, we are in the process of stopping it.

Sen. BROWN: As Chairman of the Rules Committee, does the Rules Committee intend to hold more meetings for the introduction of more bills or have you called your last meeting?

Sen. FERDINANDO: We haven't decided whether we have called our last meeting. Hopefully we have.

Sen. DOWNING: I rise in support of the report of the Rules Committee. As a member of the Rules Committee, I would like to clarify a few points. The Rules Committee is open to submissions by any member of this Senate until this Senate decides that it is shutting things off. That is a decision for the Senate to make. If you don't want us to entertain the introduction of new bills, then just reject it and don't accept any more. Say that is the cut off date. But until you do that, then the Rules Committee is there. If any Senator requests the Rules Committee to consider a bill or a resolution for introduction, the Rules Committee would have to consider it. This does not have not received the okay of the Rules Committee. If a sponsor wants to pursue it and introduce the bill anyway, then as you know, it will take two-thirds of the body to allow its introduction. The Senate itself is the one that is going to terminate the introduction of bills.

Sen. BRADLEY: What criterion is being used to distinguish between the ones you have on this list and the ones that you don't bring before us?

Sen. DOWNING: I think it is a matter of justifying an emergency to a majority of the committee. Not all members of the committee agree on every bill that is here, that it constitutes something that should be dealt with now. But it had two out of the three members of the committee at least. There is no pattern really. It is a judgment factor.

Sen. BRADLEY: Would it perhaps be better, rather than to use the term emergency, to say that the bills on this list, in the judgment of your committee, are somewhat more urgent than the other ones?

Sen. DOWNING: That may very well be. That is acceptable terminology.

Sen. FOLEY: I am going to vote no. I wish each bill were to be voted on separately, but if we are voting in a lump sum, I am going to vote no, mostly because there is one that I have had a great many phone calls on in regard to my own area which would do a great deal of harm were it to be passed. For this reason I am voting no on the motion.

Roll call requested by Sen. Saggiotes, seconded by Sen. R. Smith.

The following senators voted yea: Senators Lamontagne, S. Smith, Bergeron, Monier, Blaisdell, Rock, McLaughlin, Claveau, Ferdinando, Sanborn, Brown and Downing.

The following senators voted nay: Senators Poulsen, Bradley, Saggiotes, Trowbridge, R. Smith, Provost, Bossie, Fennelly, Preston and Foley.

Result: yeas 12, nays 10.

Motion adopted.

INTRODUCTION OF SENATE BILLS

Sen. Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, as approved by the Senate Rules Committee for introduction, Senate Bills numbered 48, 49, 50, 51, 52, 53, 54, 55 and 56 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and second reading and referral

SB 48, relative to the appropriation for capital improvements at the state prison. (Brown of Dist. 19; Monier of Dist. 9; McLaughlin of Dist. 13—To Joint Committee: Capital Budget and Finance)

SB 49, relative to the operation of the print shop in the office of the commissioner of resources and economic development. (Monier of Dist. 9—To Executive Departments, Municipal and County Government)

SB 50, relative to property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes. (Downing of Dist. 22; Foley of Dist. 24; Sanborn of Dist. 17—To Ways and Means)

SB 51, repealing the liability of a husband for payment of his wife's resident tax. (Downing of Dist. 22; Foley of Dist. 24—To Ways and Means)

SB 52, to eliminate literacy tests for voters. (Sanborn of Dist. 17; Smith of Dist. 3—To Executive Departments, Municipal and County Government)

SB 53, relative to workmen's compensation coverage for domestic employees. (Monier of Dist. 9; Jacobson of Dist. 7; Bergeron of Dist. 6; Rock of Dist. 12; McLaughlin of Dist. 13; Brown of Dist. 19—To Banks and Insurance)

SB 54, to give the superior court injunctive power over certain motor carrier activities. (Rock of Dist. 12; Monier of Dist. 9—To Judiciary)

SB 55, relative to the payment of school building aid money to the Sanborn regional school district. (Brown of Dist. 19—To Education)

SB 56, relative to the tax exemption of land and buildings owned by the state and its political subdivisions. (Monier of Dist. 9—To Ways and Means)

VACATE

Sen. S. Smith moved that **SB 55** be vacated from the Committee on Education and referred to the Committee on Senate Finance.

Motion adopted.

COMMITTEE REPORTS

HB 25, relative to extension of time limits for eliminating burning dumps in certain towns. Ought to Pass. Sen. Rock for the Committee on Environmental Control.

Sen. ROCK: We have before us another one of the efforts to bring some matter of relief to those communities of a size and of a nature that have been experiencing great difficulty in trying to comply with the EPA regulations as to open pit burning. **HB 25** as it was originally introduced in the House was amended after their hearing, and the bill that we heard was the amended version of the bill, which changed it considerably. At the hearing on April 7, Sen. Foley and myself heard Mr. Forrest Bumford, George Barris, House of Representatives, and Barbara Bowler, House of Representatives urge passage of the bill as it is amended. To that extent Mr. Bumford presented a letter, and I would like to read a portion of that letter. It is from the U.S. Environmental Protection Agency. What this all means is that we are allowing the operation some limitations. We have reduced by taking out the size of the town, 5,000 or less, and given latitude to Mr. Bumford's agency to help these communities with this problem of open pit incineration. But the original House bill would not have met federal standards and would have been struck down had it passed as originally presented to the House. The members of the committee were unanimous in their decision that we should let this move ahead as a helpful measure for these small towns. We urge its passage.

Sen. POULSEN: In what way does this help a town? Does it extend the time that they can avoid having a land fill?

Sen. ROCK: Yes. We mandated, because of our regulations, time cutoffs that would have given no latitude at all. July of 1976 would have been absolutely the end. Now with this bill we are allowing some latitude to those smaller towns beyond on that point.

Sen. POULSEN: How much latitude is being allowed, say a town with 2,000 or less population?

Sen. ROCK: The testimony was that once a town gets over 1,000 it is going to be a little more difficult to have latitude. But towns of 1,000 and under it was indicated that the federal agency involved would allow this kind of help to. Once you get over 1,000 or 1,500, there is going to be some difficulty.

Sen. TROWBRIDGE: As I understand it, the key to this is that Mr. Bumford and the Air Pollution Commission can give an extension so long as it finds that such extension will not result in a violation of any air quality standards. That is the real key language, is it not?

Sen. ROCK: Correct.

Sen. TROWBRIDGE: Just so the record is clear, what you are saying is that towns under 1,500 or so, there is a possibility that they could have open burning and still not violate any air quality standards, but if you are over that it is unlikely that you could?

Sen. ROCK: Yes, they still have the opportunity to present their case, but it is my understanding from the testimony that once you begin to accumulate that size population, you are going to have difficulty proving the point.

Sen. POULSEN: I don't have it resolved in my mind what does happen to a town of say between 1,000-2,000 population that in all this time hasn't been able to find an acceptable piece of land on which to put a land fill dump. What do they do under this? Are they completely at the mercy of Mr. Bumford? Do they have to cart rubbish off to another town?

Sen. ROCK: The bill does two things. It takes away that cutoff date that would have been preventative of any consideration by Mr. Bumford and his agency that we had mandated to him. The way the law reads, unless we approve this or similar legislation, that is the kind of problem that I see happening as a result of your question. If we don't pass some legislation of this kind allowing ourselves to get out from under that cutoff date and then allowing the presentation of information that would be of mitigating circumstance to allow the burning, we would be putting every community, small and large under the gun. I really don't have all of the answers to your questions, and the testimony indicated that they don't have the answers to those questions, either, and they are working towards solutions, wherever possible, for these small towns. It is a hardship that to me is horrendous. I share your ultimate concern that we are mandating some of these communities into bankruptcy if we don't let them do something besides build expensive incinerators or land fill operations. I think this will help.

Adopted. Ordered to third reading.

SB 45, to increase the maximum interest payable on bonds issued by a housing authority. Ought to Pass. Sen. Monier for the Committee on Executive Departments, Municipal and County Government.

Sen. MONIER: The Executive Departments Committee heard **SB 45**. I will be honest and say that I was the Senator who heard it because most members were tied up in other hearings. Only the representative from the Manchester Housing Authority appeared. He provided myself and the secretary with the following reasons for it, and at that time I questioned him on two or three issues, and I have since talked with other Senators. The prime purpose of this bill is to provide for housing authorities only, to allow them to raise the limitations of the 8 percent that is currently in the statutes for bonds to 10 percent. I specifically asked the question, does this mean that you would automatically offer them at 10 percent, and the answer was no. I am instructed that they need that kind of leeway in order to make certain that where they are working with federal funds and other types of things to put together a housing authority that they will not at the last minute find that they cannot raise the funds through bonds sales. Nobody appeared in opposition to the bill, and therefore it was recommended as ought to pass.

Adopted. Ordered to third reading.

HB 3, to redefine professional nursing to include the performance of certain medical functions in collaboration with physicians or dentists licensed in other states and Canada. Without Recommendation. Sen. McLaughlin for the Committee on Public Institutions.

Sen. McLaughlin moved that the words Ought to Pass be substituted for the words Without Recommendation.

Sen. McLAUGHLIN: We had a public hearing on this this morning, and the committee unanimously went along with changing the wording to ought to pass.

Sen. BERGERON: Exactly what is the purpose of this bill?

Sen. McLAUGHLIN: In our last session some one of our bills that went through us, in clarifying the nursing status in the state of New Hampshire, some error of judgment was used, and it specified that nurses can only get instructions from doctors in the state of New Hampshire. This changes the wording of that to mean any nurse in the United

States or Canada. In other words, it spells out the effects on visiting nurses, whereupon there are 40 or 50 visiting nurses organizations in the state of New Hampshire. A lot of them are on the border line with Connecticut, Maine, Canada and Massachusetts. If a person was in the hospital and under the doctor's care in a foreign state and had a doctor in a foreign state working with them or giving them medication, etc., this nurse could not administer this nursing care to them unless it was countersigned by a New Hampshire doctor. It made it very impractical at this point to do this because a lot of them living in the area, of, for example, Haverhill, Massachusetts went to the hospital over there. Some of the hospitals are over the state lines. It meant that a doctor in New Hampshire had to give these instructions to this nurse which means where does that doctor get his instructions unless you go to him? Most of these people are not going to them, but are being treated by doctors in other states, because of the illness that they may be involved with, because they know the doctor better or because the hospital is closer to their home than a New Hampshire hospital is, so they get instructions, and they cannot proceed without having a doctor from New Hampshire come and countersign it. The doctors in New Hampshire do not want to countersign the statement because they have not visited the patient and do not know what the problem is or how to treat the patient. So it was an oversight on all of our parts. The nurses' associations were there and stated that this was not their intent when they passed their other bill. It's really just a question of housekeeping here.

Adopted.

Sen. ROCK: In past years there have been several efforts made to introduce legislation that would allow persons of a lesser background than a registered nurse to administer medicines and prescriptions in facilities. This has nothing to do with that?

Sen. McLAUGHLIN: Nothing whatsoever.

Sen. ROCK: You still have to be a registered nurse taking the instructions from the doctor, and not the doctor giving instructions to just an attendant to give the medicine.

Sen. McLAUGHLIN: That is correct the way you said it.

Ordered to third reading.

SB 46, authorizing the commissioner of safety to grant certain department of safety employees police powers for certain circumstances. Ought to Pass. Sen. Claveau for the Committee on Transportation.

Sen. CLAVEAU: The bill does just what it says to give the Commissioner of Safety power to grant certain police powers to certain Department of Safety employees. The reason for this is that when some of these Registry inspectors are performing their duties on the highways, sometimes they may run into someone who has stolen a car or someone who has committed violations, and it is not always appropriate to wait for a police officer to arrive to make an arrest. This would give this inspector or person with the Department of Safety with the power for arrest. This would only be used in line with the performance of their duty as far as automobile registry is concerned. No one appeared in opposition to it. Commissioner Flynn was there and Commissioner Clark, and the committee decided to report this as ought to pass.

Sen. BOSSIE: How could we be assured that these people who do have police powers would have proper training? There is nothing in here that requires training?

Sen. CLAVEAU: I believe that Commissioner Flynn said that the people who would be given this power, he says that many of the personnel in that department are former police officers, and he said they would be ones trained in proper police work.

Sen. BOSSIE: But there is nothing in here that prohibits them from allowing his secretary to become a police officer?

Sen. CLAVEAU: No, there is not. I guess we will just have to rely on his good judgment.

Sen. BERGERON: I assume that the people you are talking about are the people who have not been assigned to the State Police that are still in the Motor Vehicle Department?

Sen. CLAVEAU: No. I think many have transferred from the State Police to the Motor Vehicle Department. These are the people that he would give the police power to.

Sen. BERGERON: On these people, aren't they in full State Police uniform and driving State Police cruisers? Are these the people you are talking about?

Sen. CLAVEAU: According to the bill it says any employee who works for the Department of Safety could be given that power at the present time by the Commissioner.

Sen. BERGERON: I am just curious, with this, how many more unmarked cruisers we are putting on the highway?

Sen. POULSEN: Are these the people whose most usual function is to go around and check inspection stations and weights and things like that? Are these the people we are talking about?

Sen. CLAVEAU: It was not specified who they were, but the Commissioner did say that they would be responsible people who are trained in police work who have the experience in police work. I would assume that the Commissioner, being a police officer himself, would have the good judgment to not appoint anyone who is not qualified to do this.

Sen. BOSSIE moved that SB 46 be referred to interim study to the Committee on Transportation.

Sen. BOSSIE: I have no great objection to proper employees being given certain police powers. This bill is very unlimited in scope and by virtue of that fact, anybody, including the secretary or the fellow who cleans the office without any training, could be given these powers, which he is not aware of what the laws are, to begin with. It is necessary that people with this power be given certain training. If a car is stolen it is possible that the people who have the car perhaps could be dangerous, and we don't want the office secretary arresting them and finding out they have a gun. A person wouldn't know what to do. So I think this really needs a lot more study. Perhaps the idea is good. I think it needs more study before we adopt it hastily.

Sen. CLAVEAU: Would you have any objection to amending the bill to cover some of the points that you are talking about?

Sen. BOSSIE: I believe it really needs study, Senator, and things done in haste are really bad. I just think this needs more study than it has been given. I think there is a lot more to this bill than we see on the surface.

Sen. CLAVEAU: Do you think that you might have been enlightened on this subject more if you had been at the public hearings?

Sen. BOSSIE: I probably would have, but I think you explained it perfectly.

Sen. FERDINANDO: This bill is just saying that when the Commissioner of Safety deems it necessary, he can grant certain employees within his department these duties. I think I can appreciate your feeling of concern, but it seems that what we are doing here is that if an emergency situation develops—

Sen. BOSSIE: This does not say emergency. This permits him to let the secretary do it.

Sen. FERDINANDO: If he thinks it is necessary to have the secretary do it, it is better to have the secretary do it than nobody do it.

Sen. BOSSIE: I disagree with you. The secretary doesn't know the law, he or she doesn't know how to arrest a person, how to watch out for dangerous things. I don't think your ideas are bad. It is just that the bill should say what it means and mean what it says.

Sen. LAMONTAGNE: I rise in opposition to this motion. I was on the Committee on Transportation when this matter came up, and I personally feel that these individuals that are in the Safety Department under the Commissioner of Safety. I do feel that these people do have the qualifications because they do stop people but have no right of arrest. At the same time, if these people were given the right of arrest, it certainly would be very helpful to that Department and at the same time for public safety. If you take these same people that the Commissioner is referring to, they could be easily transferred to State Police and therefore these same people could have the enforcement of the law. I don't see anything wrong in giving the authority to the Commissioner to give the authority to some of these people, the right of arrest.

Sen. CLAVEAU: I rise in opposition to the pending motion. The Commissioner made it very clear that only qualified people would be appointed. This is almost like a no-confidence vote if we pass this motion. The Commissioner has done a tremendous job, and I am sure that he would not appoint anyone who was not qualified. I think you should give him this power. I would hope that you would vote this motion down.

Sen. ROCK: Assuming that we all agree that the Commissioner has done an excellent job, and questioning your comment that this would be a vote of no-confidence, isn't it possible that having this passed, this law, we might get another Commissioner, in whom we would not have the same degree of confidence, and he would have this power and authority, at a time when we would not be here to change that statute. Wouldn't that be a problem?

Sen. CLAVEAU: This is very true. But you said something about us not being here to change it. If we are not here, I am sure someone else will be here to change it, if it has to be changed.

Sen. LAMONTAGNE: The commissioner of Safety, isn't he the head of the State Police that have the right of arrest?

Sen. CLEVEAU: Yes.

Sen. TROWBRIDGE: I rise in favor of the motion. I think there is one thing that has not been brought out here at all. We had a controversy, and we passed a bill, I think about four years ago, in which we moved some Motor Vehicle inspectors into the State Police. We did it by statute. These people didn't want to have arrest powers. They had not signed on to be State Police. One of the issues that is raised here is the fact that the Commissioner may give police powers to some people in that department who had no intention of becoming part of the State Police System, when they signed on as employees, and that it is unfair to those employees to put these burdens on them. A lot of people are not prepared to be arresting officers. I think that has not really been brought out at all. That is what worries me, as much as the other issues that have been raised. Sen. Bossie is right in saying that this is a broad issue that cuts both ways.

Roll Call requested by Sen. Lamontagne, seconded by Sen. Claveau.

The following senators voted yea: Senators S. Smith, Bradley, Saggiotes, Blaisdell, Trowbridge, Rock, R. Smith, Provost, Brown, Bossie, Fennelly and Foley.

The following senators voted nay: Senators Lamontagne, Poulsen, Bergeron, Monier, Claveau, Ferdinando and Preston.

Result: Yeas 12, Nays 7.

Motion adopted.

SB 47, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. Ought to Pass with Amendment. Sen. Lamontagne for the Committee on Transportation.

Sen. Lamontagne moved that SB 47 be made a Special Order for 1:01.

Motion adopted.

Sen. S. Smith presiding.

TAKEN FROM THE TABLE

Sen. Jacobson moved that SB 26 be taken from the table.

Motion adopted.

SB 26, requiring persons convicted of driving while under the influence of intoxicating liquors on controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program.

Question is on the adoption of the committee report that SB 26 be sent to interim study by the Committee on Transportation.

Sen. JACOBSON: You have an amendment to SB 26, which is on your desks. It would be more proper that we reject the present motion, so that then I could propose the amendment. If then you reject the amendment, then we could go back, and the motion could be made again to send it to interim study.

Recommendation lost.

Sen. Jacobson moved the adoption of the amendment.

Sen. JACOBSON: This amendment looks like a very long one, but actually there are very few changes. For example, on the first page, under II, the original bill has that a license shall not be reissued. The Motor Vehicle Department cannot do that. They must issue a new license. Therefore, it is changed from reissue to issue of a person's license or restoration of a person's operating privilege. Exactly the same thing is in III, where it is issuance rather than reissuance. Under IV, the original bill had within seven years preceding the date. This has to do with a second and third conviction. On the second page, on number four, the only change is to reduce it from 60 days to 50 days. So that the person who goes to school actually gains ten days. Now the Motor Vehicle Department is a little concerned about being able to handle it logistically. The original intention was to have it thirty days, and they said they couldn't handle it logistically in that way. I believe they could do fifty days. This actually then gives a benefit to the individual of ten days, if they go to school. The others down here, that section simply replaces and puts in the Director, Division of Motor Vehicles. Then there is a section which is a new section which strikes out section five of the bill and actually gives the Division of Public Health an authority to advise the Motor Vehicle Department with regard to the medical aspects of licensing drivers, enforcement and the like. So that simply establishes an advisory posture for the Division of Public Health. The last section is eliminating section 7 and simply reduces the committee from the seven members to five members. That is what the amendment does.

I would like to speak to part of the bill—that is the ASAP program. I spoke at length

last time we met on it, and I firmly believe that it is a worthy program because we need to do everything possible to control alcohol abuse on the highways. If we can save one life, then this bill is worthwhile. As I indicated last time, we had reductions in highway deaths since the program has been established, though of course we cannot absolutely prove that, but a reduction from 214 to 151 is a significant reduction. Furthermore, there was a survey conducted, you might have noticed in the UNION LEADER there was an article relating to it, and the survey showed that the overwhelming majority of drivers, who have actually come before the law, favor this kind of procedure of a retraining school. So that I would like to say that I think we ought to continue the program, which is going to expire on July 1 unless we take affirmative action today.

Sen. SANBORN: In your original bill, was there a place that made that mandatory or not?

Sen. JACOBSON: There is a section in the bill that is not changed by my amendment which says that the going to school is a requirement, but it can be waived by the court or by the Director of Motor Vehicles.

Sen. SANBORN: In the original bill I believe it was something like \$50 from the person that is going to go to the school. Will this \$50 pay for the entire program or is there going to have to be some other funds from the Highway Funds?

Sen. JACOBSON: The persons who have handled the program at the present time project that the \$50 will handle the cost of the program. There has been a further suggestion that the money be appropriated for the school out of the Highway Safety Fund. I spoke to members of the Senate who thought that might be a good idea, and he decided not to put it in today, but would like to discuss it if the bill passes and gets over to the House. If the concept is accepted, then I think there may be alternative ways of financing it.

Sen. ROCK: On page 1 of your amendment, IV, what does that change in the current statutes?

Sen. JACOBSON: It brings it down from seven years to four years, but I will be glad to check that.

Sen. ROCK: Subject to check then on what we are changing in the present statutes, it is your indication that we are establishing a more lenient procedure relative to the second convictions than what exists at the present time?

Sen. JACOBSON: That is right.

Sen. ROCK: You mentioned the reductions in highway deaths, and I commend you for the very careful way in which you said that we cannot absolutely attribute it to the ASAP program. Is it not a fact that during the same period of time that the highway deaths were drastically reduced, the speed limits on the highways were reduced at the same time?

Sen. JACOBSON: You are absolutely correct. It probably was a conjoined circumstance. I would like to further add that those who have gone to the school have a 33 percent lower recidivism rate than those who have not gone to the school, which I think is the basis on which I tried to indicate the possibility of actually having some persons who have their lives saved because an individual went to school and is not again out driving under the influence.

Sen. ROCK: Do you have any figures to show that notwithstanding the fact that the recidivism rate is lower, how do we stand on arrests for DWI as compared with previous years?

Sen. JACOBSON: I do not have that figure. Perhaps Mr. Muir has that figure. He says last year it was 8,800 versus 2,500 in 1971.

Sen. ROCK: You referred to a survey in the MANCHESTER UNION LEADER. Could you tell me who took the survey and under what circumstances?

Sen. JACOBSON: I believe it was taken under the direction of the Division of Motor Vehicles.

Sen. ROCK: Is it my understanding that on page 3 of your amendment, the committee that you are establishing of five members does not now exist?

Sen. JACOBSON: That is correct.

Sen. ROCK: The original proposal is seven members?

Sen. JACOBSON: The original proposal was seven members, and it was suggested that a five member committee might be a more amenable group to handling the problem.

Sen. ROCK: At whose suggestion was the committee to be established? Where did that thrust of a committee come from?

Sen. JACOBSON: That same from the persons who proposed the legislation. There was a group of people who came to my office to propose the legislation. They were Mr.

Muir, Mr. Trow and Mr. Power, and there may have been other persons related to it, but those were the three principals involved.

Sen. ROCK: Am I correct in my understanding of the present statute wherein if a person is arrested and convicted on a charge of DWI, he has the option to attend the school or not?

Sen. JACOBSON: As I understand it, this is not part of the statute. This is a federally-administered program. What we are doing in this is to put it into a state-administered program. That's the whole thrust of this bill.

Sen. ROCK: To help me understand, if a person is arrested under the present conditions, statute or regulation, he has a choice to attend this school or not, and choosing not to attend the school it might take him a little longer to get his license renewed?

Sen. JACOBSON: As I understand it, at the present time it is a voluntary program. I don't believe that there is a serious distinction between not going and going at the present time, as far as revocations are concerned.

Sen. ROCK: Subject to check, would you agree with me that there is a distinction on the amount of time wherein the Commissioner can—

Sen. JACOBSON: There is an elasticity situation at the present time which I believe is 60 days to two years. If he gets the sentence and he doesn't go to school, that is the sentence. If he goes to school, I think he has the opportunity of having a lesser sentence, but the minimum still exists.

Sen. ROCK: But we are removing the option of his choosing to go to school or not, and we are now mandating that he must go to school unless the court waives that provision?

Sen. JACOBSON: We are mandating it unless the court or the Division of Motor Vehicles relieves him of it.

Sen. ROCK: I have a hard time disagreeing with you on the benefits of the school, even though I have heard comments from people who have attended the school that it is at times less than what we are told it is. I still have difficulty disagreeing with you on the merits of the school. What I wish you would do for me is to relieve my mind of the possibility of this being a foot in the door type piece of legislation that is going to throw the whole financial burden of the ASAP program onto an already over-financially burdened budget.

Sen. JACOBSON: The present bill will not put any dollars on the over-burdened budget. I cannot predict or project what some future legislature will do. I have no way of doing that. The present statute of the bill is that no dollars are going to go into it.

Sen. ROCK: There is nothing in the bill that I can see that says if the \$50 fee is not sufficient to cover the costs of the operation of these various schools, that the schools will be terminated. Rather, I see in the legislation the possibility of a \$50 fee levied on a person who has already paid a \$500 fine, lost his license and perhaps his job, and now is going to pay a school fee, unless the court waives the fee. I see nothing in the legislation that prohibits the funding of the schools should the fee not be sufficient, so that we are in effect funneling state dollars into a federal program that has had the rug pulled out from under it, so to speak, by the federal dollars. Is that not true?

Sen. JACOBSON: That is not true, if I understand it correctly. Sen. Trowbridge probably could correct me if I am wrong, but at the present time, there is not an item in the budget for this program. Therefore, it could not spend state dollars at the moment. There is nothing in this that says that if they don't get enough money they then can spend state dollars. So if the bill rides the way it is, there would be no state dollars. Presumably, if they had a diminishment in convictions, because that is the source of the money, they would then have to have less schools, which would then in fact be good.

Sen. LAMONTAGNE: Could you tell us whether this is the first offense or the second offense?

Sen. JACOBSON: This is the first offense that we are talking about.

Sen. LAMONTAGNE: Is there any protection for a man who is not a drinking man, who possibly had had only two drinks and therefore possibly developed into some type of sickness that might have raised his alcohol content level and therefore he would be taken before a judge and fined? Is there any provision to take care of that man, who is not a drinking man?

Sen. JACOBSON: I would say that if his alcoholic content is above .10 that then the law says that he is intoxicated for purposes of driving. Now if he has become ill and can establish that vis-a-vis a physician and in some manner because of his illness raises his alcohol content, I am sure the court would take that into consideration.

Sen. LAMONTAGNE: What protection is there in the law? You are leaving it into the minds of one individual, who is a judge?

Sen. JACOBSON: There is no protection in this law with regard to the question that you are talking about. This law had nothing to do with that question.

Sen. LAMONTAGNE: I understand that, but you are going to require this person, who is not a drinker, to go to school.

Sen. JACOBSON: Except as waived by the court or the Director of Motor Vehicles.

Sen. MONIER: Would you believe that ever since I have been involved in the House or the Senate that I have been fighting for tougher DWI laws, and I am not against the program? I have some questions because I don't understand some things. It has nothing to do with my feelings about the bill. At what point or where in your amendment does it change what it says in the original bill with respect to funding of this whole program?

Sen. JACOBSON: The amendment does not change it at all. It is exactly as it is in the bill.

Sen. MONIER: It states in the original bill on page 6, II, the expenses of this, and there is a whole listing of things in here, all of which, you have indicated previously, does not involve state budget operational funds. What does it mean in 6 and 7 when we talk about land, the Public Works and Highways Department for a maintenance of highways, fees received under RSA 262-A:64-b, which shall be credited to the drivers' retraining fund, revenues from fees, rentals and the sales of products from lands under the jurisdiction of the Department of Resources and Economic Development, which shall be credited, etc? Doesn't this really mean that the state is giving up revenues in order to support this program, if the fines do not maintain the program? I would like to clarify this, but I am not satisfied with the answer that we do not have a cost to the state, when all of these matters are still in the original bill.

Sen. JACOBSON: This is the present statute and includes the methodology whereby all of the funds from all of these various commissions go to the State Treasurer. What this adds is the little sentence on the fifth line down on page 7, regarding fees received under this present proposal, which shall be credited to the driver retraining fund. That is all this adds. The rest is a whole bunch of other things that fees are given. If you see up above where you began, it states very specifically under II, what I said earlier.

Sen. MONIER: Then in a sense, all of this other material about the money received by the State Treasurer has no effect to this program? We are merely adding another account?

Sen. JACOBSON: Another account, that is all.

Sen. MONIER: Is there anywhere in the original bill or the amendment which states that if the fees collected for this program are less than the program is costing that the program will be reduced to meet or stay within the revenues received on the basis of the program?

Sen. JACOBSON: That is the basis of the program, that it is a self-paying program.

Sen. MONIER: How does that relate to, on page 8 of the original bill, II which states, that provision of personnel, for example, a rehabilitation coordinator, employ such assistance including a rehabilitation coordinator as may be necessary to carry out the purposes of this chapter in accordance with state personnel regulations and within available appropriation funds. Can we be assured therefore, that this will be a temporary job, that if the funds were reduced by perhaps the success of the program or lack of people paying the \$50, etc. that this person would no longer be on our payroll?

Sen. JACOBSON: Your first question relates to RSA 612, the insertion of the authority of the Treasurer to disburse these funds. It is specifically stated that these are the only funds that he can disburse to this program.

Sen. MONIER: So that in your view if for any reason funds were not sufficient, this program would be reduced to stay within the revenues of the amount of money received from the \$50 fees?

Sen. JACOBSON: This program is based upon the projection of potential convictions who then will go to the school program, and they have developed their financing based upon that projection.

Sen. MONIER: If those projections are incorrect, will the program be reduced?

Sen. JACOBSON: The program will have to be reduced unless the Legislature decides to give it money.

Sen. FOLEY: This is perhaps a hypothetical question, but if I were a member of this group that was in charge of the training program, and I had my budget which has been projected for two or three years in advance, how many people will be accused of DWI, how many people will be going to school, and suddenly my program is a success and I haven't got as many people, would I not, in order to protect my job, go out and really

get somebody like the IRS does. Those men have a certain amount of money that they have to take in for people who haven't done their papers correctly. Wouldn't I then go out and really try to get them in order to keep my job and keep the school going and keep up to what our projections are? That is what I don't like about it.

Sen. JACOBSON: The persons who are working the program are not the police who are in fact the people who do the arresting. The people who are working the program bear no relationship to the people who are arrested and convicted. I don't know how that is even possible.

Sen. BOSSIE: Section 4 provides that any person whose license has been revoked is eligible to receive a provisional license after 50 days. As you recall, during the last session of the Legislature we passed a law which provided that any individual who refuses to take a test, either blood test or otherwise, under the Implied Consent Law, may, if he is found not guilty in the court, get his license back, provided the Director does it. Do you have any statistics for me to show how many people who were found not guilty ever got their license back? Why did you provide that he is eligible; why didn't you say, "shall" get it back in 50 days?

Sen. JACOBSON: The reason for that is the court in fact can give from 60 days to two years on conviction. If in fact he got a conviction for 100 days, let's say, and if he went to school, that makes him eligible to get it in 50 days. That is what this proposal says.

Sen. SANBORN: Would you believe that when the committee took testimony on this bill that it was stated before the committee that the number of people that would be referred to this, if we passed it, might increase from 2,000 to 4,000?

Sen. JACOBSON: I did not hear the testimony, but I will believe you. That means then in fact, if the convictions are in excess of 8,000, that 50 percent of them will be exempted from going to the school.

Sen. SANBORN: Would you further believe that in the testimony before the committee that they said that if this does increase to the 4,000 that two extra clerks will be required by the Highway Department for them to process the paper, that doesn't show in this bill?

Sen. JACOBSON: If they do increase and they have the appropriation and they have the money, I presume they could hire them, in the same way that if they don't get the money they can't hire them.

Sen. ROCK: I perhaps misunderstood the answer, but I thought it was 8,000 arrests, not 8,000 convictions?

Sen. JACOBSON: I believe that is correct, and I do not know the relationship between arrests and convictions.

Sen. ROCK: Could you just go with me now into the court, and the judge has before him the convicted person and he sees the program in his light and he is going to say, you will go to school. Do you foresee any great number of circumstances where the judge and the Motor Vehicle Commissioner would say other than you must go to this school?

Sen. JACOBSON: There has been all kinds of conversations, and I remember a great speech that you made in the regular session in which you were extremely critical of the leniency of judges. I do not have any evidence that if what you said is true, that on this particular issue that they are going to turn around and become hard nosed.

Sen. ROCK: Even where it means keeping this program alive, you couldn't see that possibility?

Sen. JACOBSON: I think you are accusing the Justices of New Hampshire of some sort of intrigue that I don't believe that they are going to engage in. What do they care about any of these appropriations? I don't think that is a concern of theirs.

Sen. ROCK: I am not opposed to the program. You did indicate in answer to one of my previous questions that as the program became more successful and the number of arrests and convictions dropped off, hopefully as a result of the program, we would need less schools, and my question is how would we need less schools when we must have a school in a certain area? We couldn't have schools in three or four major locations in the state because I understand that the school is one or two nights a week, and they have to get to the school and get home. Couldn't it be that we would have just as many schools with a very successful program and with a third the number of students and then be faced with the fiscal crisis that we are concerned about?

Sen. JACOBSON: If we get to that point, and if you and I are allowed to continue in this Senate, then I would be glad to discuss that particular issue. But all of the sociological evidence that we know of in regard to alcohol related problems are in the other direction.

Sen. ROCK: Sen. Trowbridge, is the ASAP program indeed a line item budget in our finances of the state?

Sen. TROWBRIDGE: In the 1973 session there is no question that the ASAP program was completely footnoted which says that the appropriations of \$61,000 would take effect upon a finding by the Governor and Council that the so-called ASAP contract between the Department of Transportation has or will be terminated. In other words, if it is terminated, the appropriation of \$61,000 goes into effect. I just got the budget for 1975, and in the Traffic Bureau area there. I do not see at this moment a separate item on ASAP. However, under Permanent Personal Services, I believe that the ASAP program and every program has to be in order to expend the funds whether they are federal funds or anything else. It has to be here, but I cannot put my finger on it at the moment. I cannot imagine that the ASAP program is not in the State Budget.

Sen. ROCK: We have been talking about certain funding of the program. When does the ASAP funding that has been provided by the federal government absolutely run out, and is it not a fact that some of the funding that has been referred to here today will then be called into play to fund this the way that I understand the footnote in the budget?

Sen. TROWBRIDGE: I am coming into this a little cold, but there is no question that the ASAP office is funded through the state budget, and they are a line item in the state budget. Sen. JACOBSON: Jacobson's bill would say that we are going to allocate the funds from the school to pay for the ASAP program, for the school and the program, as I understand it. Reading the bill, it also says that they can tap certain of the funds that you mentioned, certain funds of the State Treasury can be used. All I can say is that every single one of those items of income are now used as income to support other departments, and they are included in the final revenue estimates. They are available to the state for those purposes. Maybe we should be sure that this does go to Finance. I am not saying categorically that I am right because I just picked this up, and if I am wrong I apologize.

Sen. JACOBSON: Assuming that it is in the budget, what really happens then is the same thing that happens in the Manpower Commission and the New England Regional monies, etc., that it simply itemizes it. It does not take money from the general revenue. Neither would this bill take from the general revenue as it is stated at the present time?

Sen. TROWBRIDGE: I am not sure. Where you have an authorization to spend, unless it is footnoted saying that if federal funds are not available, the program ends, then in fact the spending authorization goes on, and there is no footnote that I can see within the last five minutes that will say that. The other items that you mention here of these items of income, I know for a fact that they are not just sitting here free and not available to anything else.

Sen. ROCK: When do the ASAP funds terminate?

Sen. TROWBRIDGE: I believe June 30 of this year.

Sen. McLAUGHLIN: Am I correct in saying that this program, if it goes into effect, people will be charged for going to school, some of that money will be diverted and put to the ASAP squad or is this just money that is going to be used for the actual schooling of people who are sent to it?

Sen. JACOBSON: As I understand it, this bill does not deal with the squad. This bill deals with the retraining program and for the provision of the school.

Sen. FERDINANDO: As I understand this program, it has been a very successful one as far as repeating DWI's. Do you understand that this program is working in this direction?

Sen. ROCK: I don't recall giving any testimony to the program or its success, other than making a comment that I had some feeling towards the program being a good one. I don't hold myself as an expert as to the success or failure of the program.

Sen. Bergeron moved that SB 26 and the amendment be recommitted to the Committee on Finance.

Sen. BERGERON: The purpose of my motion is that I have several questions pertaining to the amendment. I don't believe now is the time to go into them. These questions involve the financing. Let the Finance Committee look it over and report back to us.

Sen. JACOBSON: I rise in support of this motion. It appears that the critical questions are the financial questions. I want every one of the financing questions cleared up. My interest has been in the concept.

Sen. MONIER: I support Sen. Jacobson's comments and Sen. Bergeron's in support of this motion because I don't think many of us are concerned with the fact that the program is needed, that we need this kind of safety, that we need this kind of rehabilitation, though I dislike that word. The problem is that this is a lengthy bill and there is a

long amendment to it. I want to make sure this is financially self-sufficient as long as it is operating, and the minute it is not self-sufficient, it ceases. I think the only way to do that is in the Senate Finance Committee. Our intent is that this does come back, so that it does not die somewhere because it is an important piece of legislation. I think the questions are technical questions regarding the finances.

Sen. FOLEY: I rise in support of the motion. I would like the Senate Finance Committee to particularly look into the question that has been raised here already as to whether or not this \$50 pays only for the school or are we also paying for the ASAP troopers who have been under the ASAP program, and if it does not fund these troopers, is there a place in the budget to take care of them once the program is over.

Motion adopted.

RECESS

OUT OF RECESS

Sen. Jacobson presiding.

COMMITTEE REPORTS

HB 18, establishing maximum noise levels for motorboats. Ought to Pass. Sen. Claveau for the Committee on Transportation.

Sen. CLAVEAU: **HB 18** is to control the noise of motorboats on Lake Winnepesaukee. The Department of Safety will monitor and check the noise. The noise should not be over 86 decibel. The Department of Safety appeared in support of the bill. Commissioner Flynn also supported the bill plus John Bridges. This is done by checking the boat in operation about fifty feet away. They will have the proper meters to check. They are all equipped. There is no appropriation attached to this at all. There is a tremendous problem on Lake Winnepesaukee with these speed boats. Basically, there are 12 or 15 of them who come in from out-of-state and race around the lake and make a tremendous amount of noise. There was a petition of many many complaints that supported the bill.

Sen. BLAISDELL: This only concerns Lake Winnepesaukee?

Sen. CLAVEAU: This is to control the whole state. The major complaint came from Lake Winnepesaukee.

Sen. BLAISDELL: Have you seen the amendment to this bill.

Sen. CLAVEAU: Yes. It was amended in the House. It allows the various towns to control the number of decibels that can be allowed.

Sen. S. SMITH: I rise reluctantly in support of this bill. I have an amendment here which I would have liked to introduce, but I understand that there are problems in getting concurrence with that amendment in the House, and that if it went back with an amendment there would be a very good chance that the bill would be killed. I think it is a half a step forward in noise control if we pass this bill. I think it is poor in that it ties the control of noise into the so-called A scale and it ties it in with one specific means to measuring noise. There is much discussion throughout the nation about changing the scale on which noise is measured. This ties us into one existing system. I do, however, endorse very much the House amendment which I understand strikes out section 270:42, the pre-emption of noise control by the state and leaves it to a great extent at local option. The bill basically puts a ceiling state-wide on noise control. I do think that the bill measures in possibly a very restrictive manner, which on a nation-wide basis will eventually be changed. I think it is unfortunate that it is worded in that manner. My amendment would have changed that. But I don't want to jeopardize the bill by putting something which would have made the bill, I think a much better piece of legislation. I hope that the Senate will vote for the bill.

Adopted. Ordered to third reading

SB 50, relative to property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes. Without Recommendation. Sen. Sanborn for the Committee on Ways and Means and Administrative Affairs.

Sen. Sanborn moved that the words Ought to Pass be substituted for the words Without Recommendation.

Sen. SANBORN: Basically, what this bill does is as the law reads now, a veteran is allowed a certain exemption from his taxes. If he dies, his widow receives that exemption as long as she lives. However, starting with World War II and from then on, the military established such auxiliaries as the WACS, the WAVES, the SPARS, etc.

and we now have a large amount of women veterans. Some of those women veterans do not marry a male veteran. Accordingly when the widow dies, she has received her exemption but the widower receives nothing. The only thing that the bill does in effect is change widow to surviving spouse. That way if it is a husband of a veteran or a surviving wife of a veteran they now receive that exemption under law.

Motion adopted.

Sen. Sanborn moved the adoption of an amendment.

Sen. SANBORN: The amendment changes the date of May 7, 1975 to the August 15, 1973, the recognized date of the VA administration.

Amendment to SB 50

Amend RSA 72:28, III, (7) as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

(7) "Viet Nam Conflict" between August 5, 1964 and August 15, 1973.

Amendment adopted. Ordered to third reading.

SB 51, repealing the liability of a husband for payment of his wife's resident tax. Without Recommendation. Sen. Downing for the Committee on Ways and Means and Administrative Affairs.

Sen. Downing moved that the words Ought to Pass be substituted for the words Without Recommendation.

Sen. DOWNING: I will have an amendment to offer on this report, also. This bill basically relieves a discrimination that exists in collecting the residence tax, rather it equalizes it. If a husband goes down to register a car or get a fishing license now, he has to prove he has paid not only his residence tax but his wife's. The wife can go down and register a car or obtain a fishing license without any responsibility for her husband's tax. It seemed like we were discriminating against the husband. The bill was designed to eliminate that discrimination. After talking to the tax collectors and the Department of Revenue, they felt very strongly that it should go the other way around, that the wife should be equally responsible with the husband. So I will offer an amendment to accomplish that, if you accept the ought to pass on the committee report.

Sen. BOSSIE: I really can't see why we should make any other person other than the taxpayer himself or herself be responsible for anyone else. Why should we do that in any instance?

Sen. DOWNING: One immediate problem is that husbands are transferring titles of automobiles to their wife's name and they are thereby not paying the tax. But if they go down and register it, they have to make sure that the tax is paid for both individuals. The wife can go down and just register the car and pay her own tax and never pays her husband's tax. I guess the amount of income per individual just makes the cost of tracking it down prohibitive.

Motion adopted.

Sen. Downing moved the adoption of an amendment.

Sen. DOWNING: The amendment just equalizes the responsibility. The Department of Revenue estimated that in the City of Manchester alone there was something like \$55,000 annually lost because of this lack of equalization.

Amendment to SB 51

Amend the title of the bill by striking out same and inserting in place thereof the following:

An Act

relative to the liability of a husband or wife for payment of the other spouse's resident tax.

Amend RSA 72:5 as inserted by section I of the bill by striking out same and inserting in place thereof the following:

I Resident Tax, Spouse Liable. Amend RSA 72:5 (supp) as amended by striking out same and inserting in place thereof the following:

72:5 Liability of Spouse. A husband or wife shall be liable for the payment of his or her spouse's resident tax if, when it was assessed, they were living together as man and wife.

Amendment adopted, ordered to third reading.

SPECIAL ORDER 1:01

SB 47, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. Ought to Pass with Amendment. Sen. Lamontagne for the Committee on Transportation.

Sen. LAMONTAGNE: This bill applies only to the gross weight authorized by the federal aid highway amendment of 1974 on the interstate highway system. The weight of 80,000 lbs. will not be on New Hampshire highways, only on the interstate. How will the New Hampshire trucks get any benefit from **SB 47**? New Hampshire registered trucks would be able to register for 80,000 lbs. and go to another state and load and then travel to other states that have adopted the federal law. The state of Maine which has passed the 80,000 lbs. could travel through other states and could not stop off in New Hampshire highways and no one from Massachusetts could get off at New Hampshire. The amendment is only a formula that has been presented by Mr. Langley of the Highway Department, who has the approval of the federal government. This amendment is for the purpose of protection so that four axles or less could not load 80,000 lbs. on New Hampshire highways or the interstate. At the same time, this would only be for five axles and nothing less.

Sen. PROVOST: In other words, a truck on the interstate highway won't be able to get off in New Hampshire?

Sen. LAMONTAGNE: It will not be able to get off. The only thing it would do is give them the right to register for 80,000 lbs., but they would have to go into another state where the federal law has been adopted.

Sen. CLAVEAU: I rise in support of **SB 47**. As stated by the previous speaker, this would merely give the other states that have adopted 80,000 lbs. the right to travel through New Hampshire. Maine is one of the states and Massachusetts is another. This would not allow any truck in New Hampshire to register over the 73,000 lbs. that they can register for now. They cannot register for any more than that amount. A truck cannot come into New Hampshire that carries 80,000 legally to make a delivery. This is merely an access through New Hampshire for states that have 41,000 lbs. The Department of Safety did not oppose this bill. The Highway Safety Agency did not oppose the bill. The only opposition was the AAA, which is a traditional opponent of small trucks. They seem to have a hangup on small trucks, and they seem to catalog all trucks in its class. The only truck that will carry 80,000 lbs. is a five axle truck. Other trucks will not be involved. The railroad opposed, I don't know why. I think they look kind of stupid. They have been cutting down right-of-ways all over the country. They will not carry less than a carload lot. They have no freight stations in N.H., none at all in the whole northeast, so they aren't in a position to oppose a bill of this type. The unions opposed it because if a truck can carry a bigger load they can make less trips and they felt it would put people out of a job. Those that are concerned about safety in the state did not oppose this bill and the highway departments proposed amendment. I hope you will support this bill.

Sen. BLAISDELL: What happens if that truck runs out of gas in the middle of the interstate? Do you have to unload it and then come down and get it filled? What happens if he finds out that something is wrong with his truck and he has to get off the interstate? Are there any provisions in this bill to take care of that?

Sen. CLAVEAU: I'm sure that someone would bring him gas. He has no right at all to get off the highway.

Sen. BLAISDELL: But if he did, he could be arrested.

Sen. CLAVEAU: That's right.

Sen. GARDNER: Isn't it true that the railroads testified purely for economic reasons because they can't take the loads that trucks do. They have to have full loads in their cars. Otherwise than that they didn't oppose the bill.

Sen. CLAVEAU: This is true. They cannot render the service. It is a question of public needed necessity and they cannot give the need to the public of transportation service.

Sen. GARDNER: Their reason was for economics. Didn't they say that our roads were safer for 80,000 lbs. than the government specifications.

Sen. CLAVEAU: Mr. Langley of the Public Works Department stated that the roads and bridges were built better on the interstate highway and that they could withstand much heavier than 80,000 lbs.. There would be no problem at all.

Sen. FENNELLY: Did I hear you correctly when you said that the organized labor of the teamsters union in this state came before the committee to oppose this increase in weight?

Sen. CLAVEAU: One union member. In many states labor supports heavier weights, in N.H. one person came over.

Sen. FENNELLY: The union member, was he not a member or represent, at the Lodges Union that stayed out of Manchester.

Sen. CLAVEAU: I don't know where he comes from, he might have come from Manchester. I know that he was a labor amn. He testified at several hearings before.

Sen. FENNELLY: Could you expound a little bit on some of the reasons besides the loss of jobs, on the increase in weight? Was there any other testimony?

Sen. CLAVEAU: Actually, they took the safety angle. The truck wasn't safe. Yet the very same person admitted he drove trucks that carried as much as 100,000 lbs. Upon questioning, I said have you ever had any safety problems and he said no. Safety is only really a red heron, the trucks that carry this type of weight are made to stand a lot higher than 80,000 lbs.

Sen. LAMONTAGNE: Didn't that individual who claimed he was a union member, was an X president of the union and was not representing the union, he was representing himself?

Sen. CLAVEAU: That is correct.

Sen. LAMONTAGNE: So he wasn't representing a union?

Sen. CLAVEAU: He stated that he was representing himself but he was speaking for labor. He had no official capacity other than himself.

Sen. LAMONTAGNE: As a past president?

Sen. CLAVEAU: Right.

Sen. LAMONTAGNE: A N.H. registered truck at this time can load 73,280 lbs. That same truck can go into Massachusetts and pick up another 7,000 lbs. and go out west?

Sen. CLAVEAU: No, he would have to be registered for that capacity, unless he was registered in Massachusetts.

Sen. LAMONTAGNE: I am talking about if this law was passed in N.H. that the trucks could register for 80,000 lbs. He wouldn't have to load because he wouldn't be able to under this law, is that right? Because it is only on interstate. But, if this trucking company wanted to and had 80,000 lbs, assuming this bill would pass, he could load 73,280 lbs. and then go into Massachusetts and pick up another 7,000 lbs. and go west. Is that right?

Sen. CLAVEAU: I can't answer that because you could only be legally registered for the amount that you are registered for.

Sen. POULSEN: I rise in support of this measure. For one thing it brings N.H. in line with 41 other states, as I understand it, that have already adopted this weight provision. It has no effect on our own roads, it is only on the roads that are already maintained on U. S. government specifications. It is actually stupid that you can register a truck in N.H. for 73,000 lbs. and go all over the country with only 73,000 lbs., while all the other trucks are registered for 80 from their own state and that is exactly what we are in now. If we have this bill passed we will be able to register for 80,000 lbs in N.H. and carry that weight from Iowa to Chicago or wherever it is going and N.H. gets the revenue. It's foolish not to do it.

Sen. BRADLEY: You know a lot about animals. I'm interested in camels. Wouldn't you think that this bill is a little bit like the camel's nose getting under the tent? In other words, if we pass this bill, the next session aren't we going to be faced with the argument of why should we be letting those out-of-staters go back and forth with their 80,000 lb. trucks and not be able to take advantage of it for our own people?

Sen. POULSEN: Senator, your question is philosophy. Actually, the railroads did the same thing. We use to have a minimum weight of 24,000 in a boxcar and in the few years that I loaded boxcars it went up to 36,000 lbs. I suppose historically this could happen, but I suppose by that time roads will be much better. I think your right.

Sen. BOSSIE: You had previously asked a question of Sen. Claveau. Would you answer it yourself? I didn't understand it.

Sen. LAMONTAGNE: The N.H. trucking could gain by this bill even though it can't carry 80,000 lbs. on our highways in N.H. with the exception of the interstate. . . Therefore, the law now on a five axle from 51 ft. to 55 ft. can load 73,280 lbs. If you pass SB 47 the 51 ft. to the 55 ft. will be able to load 73,280 lbs. in N.H. and could then go into Massachusetts which has the law for 80,000 and put on another 7,000 lbs. and then go west with 80,000 lbs. This were the N.H. registered people would make a gain. But, if this law is not passed, I'm telling you that the state of N.H. is going to lose revenue because these big trucking companies are going to register in a state where they can carry 80,000 lbs. I don't see anything wrong with it. The highway department is 100% in favor of it with the formula that I have explained to you, so that a four axle with the

same length will not be able to carry 80,000 lbs. on the interstate. They will not be able to and even less axles will not be able to. The formula says five axles only can haul the 80,000 lbs.

Sen. S. SMITH: I rise in opposition to the bill and the amendment. It seems to me that we have had this bill in the not too distant past. We had it during the regular session, it went to the House and I believe was killed in the House. This bill does not do a thing for the small operator in the state, it is for big interstate truckers. I agree with Senator Bradley's question about the camel getting its nose under the tent. We have had that camel getting his nose under the tent for as long as I can remember around here and he is going to be in the tent in the not too distant future. The highway department may not have opposed this piece of legislation but any of you who have walked under any bridges on our secondary highways in this state know that with additional weights we are going to be even in more trouble. There is maintenance needed badly on many bridges in this state. I think the safety factor is enough of a reason to vote against this piece of legislation. I don't want to prolong this debate, but I hope from a safety point of view, and from the point of view of maintaining and preserving our highways to some modicum of good roads, that this bill be laid to rest.

Sen. POULSEN: Do you realize that the secondary bridges you are talking about have no bearing on this bill?

Sen. S. SMITH: They have no bearing at the present time, but, the concern is the continuing increase session after session, expansion of the 80,000 lbs. on the highways. I think that next session we will have an 80,000 lb. bill before us on all the highways.

Sen. POULSEN: Do you realize Senator that we are not talking about the secondary roads but, in this case, the U.S. interstates, only I-95, I-93 doesn't come into it? Do you realize that there are no secondary roads involved in this?

Sen. S. SMITH: I recognize that Senator. I hate to repeat myself. It is not the concern right at the moment but the interstates. It's the concern with what is going to happen another session. I have seen a number of bridges that have had to be replaced in my senate district over the years, I don't want to see them treated any worse than they are presently being treated.

Sen. POULSEN: I think you have skirted around my question. My question had only to do with interstates. The second question has to do with the ownership. You eluded to the fact that it was only large owners. Do you realize that many trucks are owned singly by individuals, they are not big fleets, they are pure wildcaters who own one truck, operate out of N.H. and are limited in their registration and have to go through the whole of the United States, limited to a 73,280 lb. registration while all the competition has 80,000 lbs?

Sen. S. SMITH: This may be. But, what I am concerned with is what is going to happen to the people who are driving cars, from a safety point of view, on our highways and what is going to happen another session with more and more weight, more and more length and more and more width being added to our trucks.

Sen. LAMONTAGNE: Are you aware that the North Country for hauling forest products has 90,000 lbs.?

Sen. S. SMITH: I recognize that and I also recognize the conditions of some of our bridges in the North Country.

Sen. LAMONTAGNE: Will you, at this time, answer another question? Could you tell us where there was a bridge that was replaced since we have had the 90,000 lbs.?

Sen. S. SMITH: When did the 90,000 lbs. come in Senator?

Sen. LAMONTAGNE: Three years ago.

Sen. S. SMITH: No, But I know of bridges that have been replaced because of trucking. I couldn't tell you the weight. Drill rigs have gone through one bridge in my district and the bridge had to be replaced. I can think of other bridges constantly being worked on because of their deterioration. The large trucks are not helping the deterioration. I am concerned with the guy driving the truck over some of the bridges which have not been repaired in this state.

Sen. LAMONTAGNE: Senator, could you tell us what type of cargo was on that truck that went through that bridge?

Sen. S. SMITH: It was a drilling rig and that was it.

Sen. LAMONTAGNE: So it wasn't a 90,000 lb. rig?

Sen. S. SMITH: No, and that is what I am concerned about. The heavier they are the further they are going to go through.

Sen. LAMONTAGNE: Could I ask you another question? Could 90,000 lbs. go onto that bridge that you are talking about without breaking the law?

Sen. S. SMITH: No you can't. But people are breaking the laws on the highway

continually. They are driving fast. I had a truck pass me today coming down here and I am not known as exactly a slow driver. He went by me like I was standing still. These are the concerns that I have for safety on our highways.

Sen. LAMONTAGNE: What has that got to do with the interstate highway?

Sen. ROCK: Senator your comment about the truck going by you intrigues me. My understanding is and if I am not correct, please correct me, that we have a statute that says that truck, was exceeding the speed limit if it was going over 55. Were you going about 55?

Sen. S. SMITH: I was going about 55, I don't want to incriminate myself, close to 55 and this truck went by me like I was standing still. My problem with this is that we do not have the police force to stand by every bridge in the state and by every truck on the highway to be sure that it is maintaining a reasonable speed to be traveling over roads and bridges according to weight.

Sen. ROCK: Sharing your concern about speeding trucks, did you notice the name on that truck?

Sen. S. SMITH: No, I did not.

Sen. CLAVEAU: The AAA in their testimony, in opposition to the 80,000 lbs., said that the transportation lobbyist badgered the Congress. They said they badgered the Senate, the U.S. senate, they badgered 41 states into 80,000. Would you agree with them that these people could not make up their own minds in the public interest?

Sen. S. SMITH: I would have no opinion on that. I imagine there has been a lot of input, if you want to put it that way, into various people as to how they should vote on weights both on a national level and on a state level. It seems to me it has been a rather usual topic of conversation in this body.

Sen. CLAVEAU: Would you agree that the AAA has badgered you into opposing trucks?

Sen. S. SMITH: They haven't badgered me any more than any other groups have for increasing the weight limits.

Sen. R. SMITH: Sen. Smith let's say that you and I run the Smith Brothers Trucking Company and let's say that by some good fortune the highway garage instead of being located down here becomes the terminal for the trucking company. Don't you think it would be a great temptation for us to load and unload the 80,000 lbs. at that terminal because it is only a stone's throw off the interstate which we are allowed to operate on at 80,000 lbs.?

Sen. S. SMITH: I do Senator. I would rather have it some place else than as near the central headquarters for state police than that location otherwise I think that is true.

Amendment to SB 47

Amend RSA 263:61, XV as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

XV. Notwithstanding any other provisions of this section or any other law to the contrary, a combination of vehicle and semi-trailer equipped with five axles, operating on the interstate highway system only may be legally operated with a gross weight not to exceed the gross weight as authorized by public law 93-643, the Federal Aid Highway Amendments of 1974.

(a) The gross loads permitted by public law 93-643, the Federal Aid Highway Amendments of 1974, are determined by the following formula:

$$W = 500 (LN + 12N + 36) \\ (N-1)$$

Where W = Overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds,

L = Distance in feet between the extreme of any group of two or more consecutive axles,

N = Number of axles in group under consideration.

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such sets of tandem axles is thirty-six feet or more; provided, that such gross weight may not exceed eighty thousand pounds including all enforcement tolerances.

(b) The formula $W = 500 (LN + 12N + 36)$ when ex-
(N-1

pressed in tabular form results in allowable loads as follows:

Distance in feet
between the extremes
of any group of two
or more consecutive

Maximum computed weight in pounds
for any group of two
or more consecutive axles (wheelbases)

axles (wheelbases)	2 axles	3 axles	4 axles	5 axles
4	34000			
5	34000			
6	34000			
7	34000			
8	34000	34000		
9	39000	42500		
10	40000	43500		
11		44000		
12		45000	50000	
13		45500	50500	
14		46500	51500	
15		47000	52000	
16		48000	52500	58000
17		48500	53500	58500
18		49500	54000	59000
19		50000	54500	60000
20		51000	55500	60500
21		51500	56000	61000
22		52500	56500	61500
23		53000	57500	62500
24		54000	58000	63000
25		54500	58500	63500
26		55500	59500	64000
27		56000	60000	65000
28		57000	60500	65500
29		57500	61500	66000
30		58500	62000	66500
31		59000	62500	67500
32		60000	63500	68000
33			64000	68500
34			64500	69000
35			65500	70000
36			66000	70500
37			66500	71000
38			67500	72000
39			68000	72500
40			68500	83000
41			69500	73500
42			70000	74000
43			70500	75000
44			71500	75500
45			72000	76000
46			72500	76500
47			73500	77500
48			74000	78000
49			74500	78500
50			75500	79000
51			76000	80000
52			76500	
53			77500	
54			78000	
55			78500	

CEll Call requested by Sen. Blaisdell, seconded by Sen. Lamontagne.

The following senators voted yea: Senators Lamontagne, Poulsen, Gardner, Saggiotes, Monier, Trowbridge, Rock, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost and Brown.

The following senators voted nay: Senators S. Smith, Bradley, Blaisdell, Bossie, Fennelly, Downing, Preston and Foley.

Result: Yeas 14, Nays 8.

Amendment adopted.

Roll Call requested on ordering the bill to third reading by Sen. Bossie, seconded by Sen. Trowbridge.

The following senators voted yea: Senators Lamontagne, Poulsen, Gardner, Saggiotes, Monier, Rock, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost and Brown.

The following senators voted nay: Senators S. Smith, Bradley, Blaisdell, Trowbridge, Bossie, Fennelly, Downing, Preston and Foley.

Result: Yeas 13, Nays 9.

Ordered to third reading.

Sen. Ferdinando presiding.

RULES SUSPENSION

Sen. Downing moved that the rules of the Senate be so far suspended as to allow the bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted and that they be passed at the present time.

Sen. JACOBSON: Mr. President and members, I rise in support of this motion and I would like to explain what the procedure will be. We are taking up third reading and final passage of the bills at this moment rather than going into the late session because of a procedural question. What we want to do then is to recess the Senate. After we have recessed the Senate and the reason for this is the House is going to meet on April 20 so that we can then introduce any bills that are passed by the House, they then could be put to the committees. That is the only business that would take place and then we would close off this day. In order to do that and not waste a day, I am asking that you adopt this motion and then we will recess and then when the House bills come over we will introduce them and go on to have the committee hearings. My present feeling is that we would come back on May 11 and that would give us plenty of time for the Senators to go on the school vacations and still come back and have their hearing. That is the present proposal and beyond that the May 11 day, if we could complete all of our business at that time, then we would probably move to have some form of adjournment.

Sen. SAGGIOTES: Senator you mentioned wasting a day. Exactly what did you mean by that?

Sen. JACOBSON: I meant that if we adjourn today and come back at some day after the 20th merely for the introduction of bills it would take up a whole day and require all the members of the Senate to be here and that would be an increased cost without any productivity.

Sen. SAGGIOTES: It is your intention that bills that come over from the House will be accepted with a limited number of senators being present?

Sen. JACOBSON: The Senate members would not have to come because there would be no further business to be performed that day.

Sen. MONIER: When you are speaking of introduction of bills, you are speaking of introduction from the House, am I correct?

Sen. JACOBSON: Senator I am speaking only of those bills that will be passed by the House so that we can get them in, read them in and refer them to committee.

Sen. MONIER: Then Senator Downing's current motion to which you are speaking, is primarily that we will adjourn today or recess, I assume, until the 11 of May, this is what I want to get clear, the 11 of May would be a full working day for us, the session, or would this be the date which you would just have a skeleton crew here to receive the bills?

Sen. JACOBSON: The day for the skeleton crew would probably be on Thursday, April 22. Our next legislative day would be May 11. I cannot tell exactly because it depends upon when the House sends the bills over to us. But that would be my plan. Then they would be referred to committee and then there would be 2 to 3 weeks in which the committees can hold the hearings.

Sen. MONIER: I am not sure whether this is a parliamentary inquiry of the Chair or whether Senator Jacobson should answer this. If we adopt this motion the floor is still open to other motions to discuss other types of activities or actions we might take?

Sen. JACOBSON: Yes Senator. All this motion does is to clear the deck of third reading so that we do not go into the late session and that we would then recess and still be in the early session to receive the bills.

Sen. MONIER: Then if we adopt this we are done now here today? There is no further business?

Sen. JACOBSON: No, if we adopt this motion we can do all kinds of business here today. I would like to further explain that if we do recess to April 22, if that be the date, then the only business that will take place then is the introduction of House Bills and the referrals to committees so that they can be heard, so that when we have a business day of May 11 they will have had their hearings and everything will be in proper order.

Sen. MONIER: Is this date of May 11 part of the motion?

Sen. JACOBSON: No.

Adopted.

Sen. S. Smith presiding.

Third reading and final passage

HB 25, relative to extension of time limits for eliminating burning dumps in certain towns.

SB 45, to increase the maximum interest payable on bonds issued by a housing authority.

HB 3, to redefine professional nursing to include the performance of certain medical functions in collaboration with physicians or dentists licensed in other states and Canada.

HB 18, establishing maximum noise levels for motorboats.

SB 50, relative to property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes.

SB 51, relative to the liability of a husband or wife for payment of other spouse's resident tax.

SB 47, permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974.

Sen. Downing moved to terminate the introduction of Senate Bills through the Rules Committee at this time.

Sen. DOWNING: I offer this motion because obviously there is some concern in this body that bills are still being introduced. If this motion were adopted by the Senate all it would do is mean that if a Senator wanted to introduce a bill in the future, he would bring it before the full Senate. It would take a 2/3 vote of the body to approve the introduction of that bill. I assume anything of an emergency nature would be allowed in but it would mean that you would no longer go to the Rules Committee for their permission to put your bill in before the full body.

Sen. JACOBSON: Senator Downing, if I understand your motion correctly, you would actually change the introduction of a bill from a majority approval to a 2/3 approval?

Sen. DOWNING: Yes and it would change it from the Rules Committee putting it before the Senate to the individual senator putting it before the Senate.

Sen. MONIER: What Senator Jacobson just asked you, isn't that already in effect anyhow—doesn't your motion mean that we are cutting off the normal procedures of coming through the Rules Committee for bills. There is always another rule that anybody can bring a bill into the Senate with a 2/3 vote for introduction or otherwise?

Sen. DOWNING: That's right. The Rules Committee can put it before this body on a simple majority vote to accept it, allow it in or reject it.

Sen. MONIER: So, then, in a sense, this has nothing to do with introducing bills to the Senate by the regular 2/3 motion but merely is saying that we should establish now a cutoff date for all this?

Sen. DOWNING: Yes, in fact it would establish today as the cutoff date from any further business you wish to introduce. You would have to introduce it to the full Senate and it would require a 2/3 vote.

Sen. ROCK: I rise in support of the measure as introduced by Senator Downing. Earlier this year by written communication, I conveyed my admiration to the job that the Senate Rules Committee had done for this body. I think we, as Senators, gave them a thankless task with few, if any, guidelines and yet I heard here this morning that to some extent the Senate Rules Committee was berated and uprated for some of the

things they brought before us. In my communication to the Senate Rules Committee I said that I felt they had acted responsibly and that I would trust their best judgment as to the bills that they would bring before us. I think the members on that committee, in a very bipartisan manner, did the best for this Senate which, in turn, was acting for the best interests of the State of New Hampshire and its constituents. Having said that I wonder if I might enlighten the Senate just briefly on some of the bills that may have come before the Senate Rules Committee that never were brought before the Senate. I particularly refer to an article that I read recently that outlined some of the laws that were referred to as blunderland's law. Laws that govern our society, although they were never passed by the Rules Committee of this Senate. They happen to disturb the day to day operations of people throughout the United States. The first of these laws is Murphy's law, if something can go wrong it will. This has led several corollaries to be formed such as any wire or tube cut to length will be cut too short, interchangeable parts won't. After any machine or unit has been completely assembled extra components will be found on the bench. Finickle's law is another of these laws. The likelihood of a thing happening is inversely proportional to its desirability. Once a job has been fouled up anything done to improve it will only make it worse. Mr. President, I paraphrase those just briefly and I would like to refer to them now. The first of these I will call Monier's law. Monier's law is, if something can go wrong it will. This has led to several other laws. Any law that is specifically designed to correct a situation will not. Then we have Jacobson's law, interchangeable amendments won't. After any bill or resolution has been completely reviewed and heard and presented in final passage form extra amendments will be found on the Clerk's desk. Then we have Fennelly's law, Fennelly's law is the likelihood of a bill passing is inversely proportional to its desirability. Once a bill has been fouled up anything done to improve it only makes it worse. And we have Loggie's law, well this is actually Loggie's first law. If it stalls in committee force it. If it fails, it needed amendments anyway. We have Senator Blaisdell's law. The probability of failure of a bill is directly proportional to the number of, and the importance of, the lobbyists in the gallery watching the floor debate. Which leads me Mr. President to finally Rock's law reverently followed by Senators in this body and everywhere, when in doubt send it to interim study.

Sen. MONIER: Are there any bills now in the Rules Committee?

Sen. FERDINANDO: Senator, there are two or three bills in the Rules Committee.

Sen. MONIER: What happens to those now under this cutoff?

CHAIR: The chair would rule that this would not have any effect on the existing bills that are in the committee. This would only stand to new bills that may be suggested by the members of the Senate.

Sen. DOWNING: For the purpose of clarifying, the Rules Committee handles two different types of bills. They have bills which are referred to them for study and they have bills which they are asked to accept for introduction to the Senate. This pertains to those bills which would be asked for introduction to the Senate. They would no longer be referred to the Rules Committee after today if this motion is adopted. The Rules and Resolutions Committee would still function after today on bills which were referred to it by the Chair. The bills left in the Rules Committee presently are bills which have been referred to it as a standing committee for hearings and recommendations and not bills that have been requested for introduction.

Sen. MONIER: What does that mean? The bills that are currently within the Rules Committee are bills there for action, am I correct?

Sen. DOWNING: First of all, the Rules Committee is unique as compared to other committees in the Senate. The standing committee of Rules and Resolutions accepts committee work the same as every other committee in the Senate. It has a couple of bills that have been referred to it for committee work. We will hold public hearings and make a recommendation to the Senate. The Rules Committee also handles another type of bill and that is a bill that Senators want to have introduced and they need to have the approval of the Rules Committee to do it on a majority vote. The latter type of bills have all been handled, judged and disposed of by the Rules Committee. There are none of those left that haven't had a decision of yes or no. The Rules and Resolutions Committee does have a couple of bills that have been referred to it as a standing committee for public hearing. This motion does not effect those bills. It only affects the further introduction of new material to the Rules Committee.

CHAIR: I would like to clarify that. My understanding Sen. Monier, is that the bills that are in the Rules Committee, and I believe there are two or three of them, will not be affected by this motion, action will take place on them. This is from now on in. It wouldn't be fair to treat these any differently because they are still in committee

because of a request of a Senator to all of a sudden say we don't want the Rules Committee to act on these.

Sen. FOLEY: Could you please tell us what the three bills are?

Sen. DOWNING: As a member of the Rules Committee, I thought we had taken action on every bill that was submitted to us for introduction.

Sen. JACOBSON: I would say that if a decision has been made by the Rules Committee on a bill, that decision then stands and from this point on there would not be any further action for introduction. If there are some bills on which a decision has not been made then that bill is entitled to a decision under the old rule. These people introduce these bills to the Rules Committee expecting action on them and I don't think that would be right but if a decision has been made on these bills then those bills are in fact done.

Sen. FENNELLY: Senator Downing, as a member of the Rules Committee Senator Ferdinando said there were two or three bills; one is a plumber's bill, can you recall if the other bill pertains to Belmont race track? Is there a bill in committee that action has been taken on one way or the other?

Sen. DOWNING: There was a bill offered to the committee and the bill was rejected for introduction into the Senate, as far as any other bill, I am not aware of it.

Sen. SAGGIOTES: Parliamentary inquiry—is it possible that we could have a minute recess; because I am at a loss? If you recall Mr. Chairman, a couple of weeks ago I asked how many more bills you had in your committee, I was told two or three. We had nine that were introduced this morning and now I find that we have two or three more plus possibly others. I feel we should know what the bills are.

The CHAIR: I would be very happy to.

Recess

Out of Recess

CHAIR: Sen. Saggiotes, the Chair would like to answer your question. There are three bills in the Rules Committee that no action has been taken on. There is the plumber's bill, the Belmont track bill and there is a business profits tax bill. There are no other bills the Committee is aware of.

Sen. BLAISDELL: Is it my understanding that some of those bills have been at least acted upon—like the Belmont track bill?

CHAIR: To answer your question Sen. Blaisdell on the Belmont track bill—we had a hearing last Tuesday and the understanding was that the Rules Committee would meet again before any final determination was made as to where we were going to go with that bill, this has not taken place yet.

Sen. BLAISDELL: If, for instance, the Belmont track bill comes out of your committee with 2 to 1 against, the only way that can be introduced in the Senate is on a 2/3 vote, right?

CHAIR: If it doesn't have the approval, it would need 2/3 of the members of the Senate to pass it.

Sen. BLAISDELL: If it has your approval it is just majority—right?

CHAIR: That is correct.

Sen Jacobson presiding.

Sen. Monier is recorded as supporting this motion.

Motion adopted.

Sen. Monier moved that the Senate stand in adjournment from the Special Session on the 20th of May and that between the end of this business day and that date that there be no more than three full session days provided.

Sen. MONIER: If the motion is accepted I would like to speak to it. The reasons for making this particular motion are as follows. At the beginning of the first day of this Special Session and it is in the journal for that day, I stated quite emphatically that if we went ahead under the circumstances of the rules as they were proposed, and I was criticized on the floor for suggesting that I use the rules as a means of debating that issue, that, we would be opening Pandora's Box. The intent was, that by opening Pandora's Box all of us were going to be reaching into it and I have reached into it just like everyone else has. This morning we had a roll call on the submission of the current Rules Committee's nine bills. I think the roll call was initiated by Sen. Saggiotes who protested at the beginning that this would open up at least one hundred bills if we kept going the way we did. My understanding is that it is 106 total, of which the Senate, I think who at the present time, has 58. We had that roll call and some people gleefully saw that I had to vote for the acceptance of these because some of these bills were under my name. The question was asked from the floor and it was not asked of me and therefore I didn't feel it was proper for me to reply, as to how many of those were from

various agencies but four of them that were on my name were. The whole issue being that this Senate has expressed during a roll call this morning, we have expressed it several times, we have publicly stated, that this special session is too long—there seems to be no end to it. The newspapers report it. The House has already said we ought to meet in September in order to resolve things as a result of revenues. We have 58 bills that we have let in. We have already voted a roll call, I think it was eleven to nine, to the effect that we shouldn't have let these in 'this time. I certainly hope that all of those who voted on the roll call no on letting them in, would support this motion. I suggest that the Senate call a halt to it. Before everyone criticizes me and says we can't control the House and we can't do this and that, I thoroughly agree, we are elected as Senators, I represent one district, there are twenty-three others, the point is we can call a halt to it. My purpose in setting the motion with the dates I did, and I am perfectly willing to debate the dates, I am not going to hold to the 20th, somewhere cut it off. We have cut off the bills and I want to see the Senate say that we no longer are going to be in Sepceial Session. The leadership of both the Senate and the House would then be on record or at least be on notice, that this is what the twenty-four of us say. Once that notice is in I won't argue about whether we have time enough, I think we have plenty of time. Time after time after time I get House calendars with work sessions, day in and day out, in which they are collecting travel pay to come up here for work sessions. There is no reason that five weeks is not long enough to get these out. If it is not long enough then these bills perhaps are not worthy of the attention of a Special Session, as some of these are not and I am the first one to admit it. We play political games. In a roll call this morning I had to vote against my own convictions that I stated the first day and not one single soul has gone back and read that. I said you'd open Pandora's Box and we would all be in it, because you have to do it almost as a defense measure and everyone here knows it. Now, if you really want to stop the Special Session from what we have talked about this morning and if those ten people that wanted to vote against introducing the bills want to make that stand publicly, I am willing to stand here and risk making a unique motion that the Senate ends its part of the Special Session on a specific date. We already have a motion which we have adopted that no more bills can be entered. If five weeks is not long enough tell me how long is, but lets set a date. Let's cut out this foolishness.

Sen. S. Smith presiding.

Sen. TROWBRIDGE: I am just getting back into this but I have been having some discussions with my counter partner Rep. Drake. We had a meeting in Senate Finance today and I outlined to them what I thought was going to happen on the House side and I would like you to consider this. It appears that the business profits tax revenue reports come in May 1 which happens to be a Saturday, so they will not be into Loyd Price until the 3rd. It will take about a week for those people to go through the reports and see whether the business profits tax revenue is going to be an up-estimate, over-estimate or under-estimate. The House Appropriations Committee is not going to decide on the pay bill or any other public spending bill until after they know which way the business profits tax is going to go, so would you still make the motion that you are going to cutoff on May 20 if the House probably isn't going to act on those bills until May 11 and they further have a rule- once the Appropriations Committee acts they have to give a week's notice to the membership, then my calculations would be that you wouldn't even have the House action for the pay bill or others until May 18th at which point they will be read into the Senate for the first time. Are you aware of those kind of schedules Mr. Monier?

Sen. MONIER: No, I will answer this two ways. No 1 I didn't introduce the pay bill. Your comments I thoroughly agree with, I said the date is open and I will not argue about that, but I will argue about some of the bills you are talking about. For example, when you talk about the revenue will be in at a certain time—there is a basic assumption there, both the House Appropriations and you have expressed it, that we should not act on money bills until revenue is known, I think that is your point. My point is, we didn't call a Special Session to act on revenue bills nor upon pay bills nor upon other things. I am a little tired of having the hypocrisy that we had on a roll call this morning about not introducing more bills on the basis of that we are way over what we were going to do, all of us know that the citizens have turned down annual sessions not once but twice but now we are stating that one of the reasons we shouldn't cutoff is because we are dealing with revenue and pay bills or other money bills. Quite frankly it sounds to me like we are more interested as to whether we can spend money than we are as to whether we have any or not. Perhaps this is a good point in my favor because I'd just as soon cut them off now. If the revenues are here then we have a surplus and if they are not here

and we need them for something already in effect then the Governor and Council can call us back in for that emergency. I am saying that if everyone else agrees with me as they did on a roll call before, some of them introduced bills just like I did, then I am saying let's call it to a halt. I tried to set three days, not because of the time elements of the finance but simply because—I—we should have all the hearings over with the bills; 2—at least on one of those days we could receive their bills in, we could set a time period to hold our hearings and report them back out and then have one last day for anything that needs to be on a committee of conference. Personally, I'd just as soon close it tonight.

Sen. TROWBRIDGE: Don't you see a rather substantial difference between the vote that I made today which is to cutoff introduction of further Senate bills which is our prerogative within our own jurisdiction, to a Senate Resolution when we won't meet after so and so when there is a good deal of pressure and I would think a good deal of members here who want to consider pay bills and other items, don't you see the difference in those two items?

Sen. MONIER: I certainly agree with you on the first one and disagree on the second.

Sen. BRADLEY: Sen. Monier you use the term consistency which confuses me. My question is, if you are concerned about consistency why didn't you make this present motion the last time we met rather than the day after you have four or five bills introduced?

Sen. MONIER: I seriously considered this last time and was advised that it shouldn't be done at that time. I might add, that I seriously considered doing it the first day and I was the only one that voted against going into the session under the current rules which allowed this. You may say about the five bills but I wonder if you are going to ask the same people this, of the nine people that voted one of them introduced six bills, one of them introduced two, another introduced five, another one introduced four, another one introduced two, another introduced five, another one four, another one four and another one six, for a total of forty of the fifty-eight. They voted today on this roll call not to accept these. Are you going to ask them about their consistencies?

Sen. JACOBSON: I rise in opposition to this motion because it does not give to good procedure. There has been a lot of conversation about how much money has been spent. The facts of the case are that this Senate has actually spent very little money this time around. We have compressed and compacted and have produced work far beyond what has been the normal procedure so that our spending has been held to the absolute minimum. I think we have a responsibility to the House with respect to its legislation; we have a responsibility with respect to the legislation that is still before us; we have a responsibility to the question of the Governor's veto. Whether or not, according to constitutional principles, we have the opportunity to respond to that veto, if there is any, it is certainly within our legislative responsibility to move in that direction so that to hard fast a given day for adjournment which has never done in the eight years I have been down here in the Senate, I do not think that is a proper way to proceed for a legislative body. I will pledge myself to have as few days as possible; spaced in such a way that maximum work can be done. I have tried to do that. As far as April 22 is concerned there will be no cost. That day will be as it were today and we can then proceed to give out the House bills that passed on the 20th and the Senate can meet and we can organize it again so that it will be minimum cost. The Clerk and I have worked together in trying to get secretaries so that we have a minimum. If you look at the record, the Senate has acted very responsibly. The Senate concluded the 1975 session at a cost of \$623.00 less than was expended in 1973. It was done by keeping the days down and keeping the organization tight. I think we should proceed in the direction we are proceeding without handstringing ourselves.

Sen. MONIER: You are saying that this body shouldn't establish any day for cutoff?

Sen. TROWBRIDGE: There is an ultimate cut off that is established by the constitution. Whenever we finish the work then I think that is the day to cut it off. We have already cut it off by adopting the resolution which I supported that there be no more Senate bills introduced.

Sen. MONIER: There is an automatic cutoff of fifteen days which is in the constitution. That is not then a date, it is a time element in terms of cost cutoff, in short 15 days.

CHAIR: That 15 days is the constitutional provision with regards to legislative days.

Sen. MONIER: You recognize that my call for a cut off date is not related to 15 days at all. It is merely setting a time date upon which we are serving notice to the public, to the House, to ourselves and to our constituents that we think the Special Session has gone long enough. I would be perfectly happy if that is what you desire, to have the 15

days or the remaining days within that time. I am merely saying apples are not oranges because they are both fruit. The fact that our constitution says 15 days has nothing to do with a request from a Senator that we cut off at a particular time unless that was to deny the fifteen days, is that not correct?

CHAIR: Senator, your motion included, I believe, not more than three legislative days which would then be in violation of what you just said.

Sen. MONIER: It is in violation of saying that we have to have 15 days. It is saying that the Senate should decide how many more days we have. The main point of the motion is to make certain that we have a date to cut it off. Because would you admit with me that if we do not we could extend those days until next December?

CHAIR: The question of how far we extend it would be a question of how much business there is to accomplish. My response to you is to set a specific day in advance of not knowing what will happen is the problem. It has never been done before and I see no just reason for doing it now.

Sen. MONIER: Then the justness of the reasoning may well be based not upon the fact that we may need more time nor that we could not get in the additional days that our constitution allows us but merely that we have no control over what other legislation may happen in another branch of the General Court.

CHAIR: At the present time we have no control over legislation that is in the House. Presumably at some future date we will have control over some of the legislation.

Sen. MONIER: In a sense, we are not setting a date and you would be in opposition to this because we are currently unable to operate as an independent body because we have to wait on the House and to what they are doing.

CHAIR: I would have to disagree with you that we are not operating as an independent body because we are operating as an independent body to a greater degree than we have ever in the time that I have been in the Senate. However, we are according the constitution a general court we have to act some times in a coordinated manner.

Sen. BROWN: I totally understand that you have worked very hard to keep the cost down for operating the Senate. During the regular session through joint rules, we had cut off dates for bills submitted, cross-over dates, the day the session is going to end and etc. Why is it you are arguing so hard against an expiration date or adjournment date. I have read in the paper that some of the leadership wants to carry this through even onto September. Can't we set some sort of date, come to a conclusion, give ample time to get what work is to be done, get that accomplished and know that it will be at a specific date, rather than let it ramble on.

Sen. JACOBSON: Senator, first of all there have been no joint rules established. The last day of a session, except a regular session, it ends on the July first, in terms of pay. We can adjourn to the call of the chair and that would be in exactly the same manner as we did in the regular session. That went on for six months and we never called anyone. The only reason you'd be doing that is for some business that the legislature would be required to come back to finish, but it is a far kind of different thing to set May 20 as the day. That says that we must then be completed by that day and we may not have the work completed on that day. We may go two or three weeks without another day, it may be in June.

Sen. BROWN: I agree with you but in Senator Monier's motion he said the date could be debated, so as to set a specific date to clean up the work in both houses and come to an adjournment. In my opinion, I would like to say yes as to a certain date, we are going to adjourn.

Sen. JACOBSON: I think at the present time that would be an impossible date because we do not know what the House is going to do at this moment. If we go further on and all bills have been passed back and forth then I could see that time limit done. But at the present time I do not see that that is a proper motion to set it in that manner.

Sen. ROCK: I understand what you are saying about the propriety of Senator Monier's motion. Assuming that it were adopted and since it is a main motion that would be adopted by a majority of the Senate, were we to adopt it and then find ourselves in the position which you have referred to as having something else that happens tomorrow and that something else being of such a grave nature that the majority of this body saw the need to extend beyond the day that Senator Monier proposes, wouldn't that motion also be in order and we would just set a day beyond Sen. Monier's day because of the importance of that particular issue.

Sen. JACOBSON: Senator that is also a possible situation. I would agree to that, but I think what is happening is that we are developing a political situation here with regard to date rather than to deal with the Senate as a procedural question sounds political involvement.

Sen. FOLEY: Senator Jacobson, have you discussed with the leadership of the House any dates about adjournment?

Sen. JACOBSON: We have not had any discussion on adjournment at the present time because only about 5 bills have come over and a great majority of the House bills have not been acted upon. As Senator Trowbridge stated, a great number of them are lying in the Finance Committee until they can take some action. Until we can actually see how many bills are going to come over then there is no purpose of trying to get together on a day. A great majority of the bills are lying in the House Appropriations Committee.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion for the reasons that were stated by the President. I think the body has put itself on notice that it wants to see an end to this Special Session and some rules and some dates have to be established. I would like to see some thought given to the establishment of those dates and hopefully the President and the leadership and the Rules Committee would meet following today's session and start to work out some dates that might complete the passage of Senate bills. I think we took one step today in shutting off the introduction of bills through the Rules Committee. Our next step may be to set a cut off date for those Senate bills that pass through this body. Generally, those things are taken care of through joint rules, we have no joint rules and in their absence we should start to establish some rules by which we are going to operate and I think that would relieve some of the pressure and encourage the House to do its work. I think only after we move a little bit further along and we have a date clear of when we are going to complete Senate work and we can then deal with the House work and start to work out a date with them. Where it is very desirable to wrap up everything and go home, I think we need to be reasonable about it and, as pointed out by earlier discussion, this is a majority vote and we could change this action later on. I think the fact that we can do what we want to do by majority vote when we want to do it and we know that is exactly what we want to do and not fly by the seat of our pants so to speak, and just do things on impulse. Everybody agrees that we have got to start setting some dates. I think the President is more or less on notice that that is the feeling of the Senate and I'm sure something will be done and he will address himself to it.

Sen. MONIER: This has been an interesting debate. So far I have been informed my motion is unique, never heard of before and yet all but one of the speakers who was asking questions of me has indicated that there ought to be some time of which we do something about this. Sen. Jacobson has indicated to the Senate that he might even support something if it set a proper date. Sen. Downing has indicated that we are in a position where we ought to start thinking about calling a halt to the Special Session in which I repeat and I will not retract from it, we are not in control of our own body because our meetings are called in response to when things come from the other side of the House. In public statements made they may wait until September, I certainly hope that the Senate wouldn't be obliging that much. I think you could go on and on. The purpose of my motion and I said at the time, Senator Trowbridge with all due apologies, I said the 20th of May was something I just picked, if we need a different date fine. I do feel strongly that the Senate should be on record publicly, that is not political at all, I didn't raise this politically, I raised it because of the roll call we had this morning and there seemed to be such a strong support for beginning to take the action to cut it off, that my feeling was very strong why not cut it off. The date is debatable, I have said that ahead of time. I merely set it at five weeks. It could be the 27th which would be six weeks, it could be seven days after that which would be seven weeks. The principal of the motion still remains and I haven't heard anybody yet say that it was wrong. Now if someone wants to offer an amendment to make it a different day I am perfectly amiable to do this. The point I'm trying to make is which I don't think is unique—you have already said we don't have joint rules; we have already said we have had all the bills and we are cutting off the time point; we are already then admitting even though we are not saying it, what we are going to do is to stay here, come back no more than the fifteen days. The constitutional question wasn't raised by me at all and I don't think it has a thing to do with the motion; the money was not raised by me. I think the leadership should be complimented on the fact that we are spending a lot less money per capita than the House has—if they look at the record. This was never the question, the question is we are going to say it ought to end and that is what my motion is for. I will be perfectly amiable again to having the date differently. I am not going to withdraw the motion because I think it puts us on record, and I might add that I am going to ask for a roll call on it.

Sen. BLAISDELL: I am going to speak against the motion. I am against setting any

deadline or any date. I have the confidence as a minority member of this Senate that the President of the Senate will work in conjunction with the house. I want to be no part of taking the House of Representatives, in the next room, apart. We are a General Court and I will not take part, at least I will vote not to take part, in slapping the House in the face across this hall. I think it is wrong, I've had my problems with the House as well as anybody else has but they are a member of the General Court and I am going to stand up for them. I would like to leave this action to the President of the Senate and the Speaker of the House of Representatives. After all, we are grown people and we should be able to work in conjunction and set the dates and I want no part of this type of thing—slapping the House of Representatives in the face.

Sen. Monier withdrew his motion.

Sen. Monier moved that the Senate adjourn from the Special Session no later than the 24th of June.

Sen. JACOBSON: I rise in support of the motion of Senator Monier, that the Senate continue the Special Session to a date no later than June 24th. This would give a sufficient amount of time, it will also give the elasticity that is required and it also provides the opportunity to close it off early. Those are the things that I talked about before hand so I have no problem with it. I don't want to meet in July or August or September or any other date myself. I think that this will allow the Senate to be flexible, it will also do what Senator Monier wants to do, to serve notice on the other side of the General Court, that we have a concern about continuing this. We have taken a further step of cutting off Senate bills except by two-thirds vote today. We can, when we come back on the eleventh knowing then a little better, provide a day for clearing out all Senate bills and that will take another step. In that fashion we can proceed in an orderly manner and that is what I want to do and I hope the Senate will go along with that proposition.

Sen. DOWNING: Parliamentary inquiry—should this motion be adopted, would the Senate be in a position then to alter that date by a simple majority vote if in its wisdom it thought it should?

CHAIR: The chair would rule that it would.

Roll Call requested by Sen. Monier, seconded by Sen. Lamontagne.

The following senators voted yea: Senators Lamontagne, Poulsen, Gardner, Bradley, Jacobson, Saggiotes, Monier, Trowbridge, Rock, McLaughlin, Claveau, Ferdinando, Sanborn, Brown, Fennelly, Downing, Preston and Foley.

The following senators voted nay: Senators Blaisdell and R. Smith.

Result: Yeas 18, Nays 2.

Motion adopted.

Sen. Lamontagne spoke under Rule 44.

RECESS

OUT OF RECESS

ENROLLED BILLS REPORT

SB 8, making a supplemental appropriation to nurses registration board.

SB 19, making a supplemental appropriation for the bureau of markets in the department of agriculture.

SB 14, to allow a district court justice to establish the court clerk's salary.

SB 28, relative to the registration and operation of mopeds.

SB 7, permitting any state agency to return to the sender a check, draft, or money order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met.

SB 15, continuing the solid waste committee.

SB 23, reinstating Hesser College as a corporation and ratifying certain degrees granted by them.

SB 29, relative to licensing of diagnostic or treatment facilities.

HB 3, to redefine professional nursing to include the performance of certain medical functions in collaboration with physicians or dentists licensed in other states and Canada.

HB 18, establishing maximum noise levels for motorboats.

HB 25, relative to extension of time limits for eliminating burning dumps in certain towns.

Sen. Lamontagne for the Committee.

HOUSE MESSAGES
HOUSE REQUESTS CONCURRENCE

Sen. Brown moved the following resolution:

Resolved, that in accordance with the list in the possession of the Clerk, House Bills number 7, 10, 21, 1, 2, 8, 22, 32, 44, 49, 48, 11, 43, 33, 36, 38, 39, 42, 47, 16, 50 and HCR 2 shall be by this resolution read a first and second time by the therein listed articles, and referred to the therein designated committees.

Adopted.

First and second reading and referral

HB 7, defining the responsibility for the planning of sewerage projects in the Winnetka river basin, defining project allocation under P. L. 92-500; and making an appropriation for algae control in the surface waters of the state. - To Finance

HB 10, making an appropriation to reimburse mental health facilities under the Medicaid program. - To Joint Public Institutions and Finance

HB 21, making an appropriation for operating and capital expenses of the department of health and welfare. - To Joint Capital Budget and Finance

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution. - To Finance

HB 2, making a supplemental appropriation to the operating budget of the secretary of state for expenses related to the decennial renewal of voluntary corporation charters. - To Finance

HB 8, making a supplemental appropriation to the operating budget of the state prison for riot related and other expenses and changing the operating budget of the New Hampshire youth development center. - To Finance

HB 22, relating to the medical-dental staff of New Hampshire hospital. - To Joint Public Institutions and Finance

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program. - To Finance

HB 44, extending the appropriation to complete Fish and Game Hatchery at Milford to June 30, 1977. - To Finance

HB 49, providing for free distribution of the 1975 general court journals to members thereof. - To Finance

HB 48, relative to changing the rate of the tobacco sale discount. - To Finance

HB 11, relative to the administrative procedures act. - To Executive Departments, Municipal and County Government

HB 43, to add statutory construction provisions to the RSA chapter on the New Hampshire housing finance agency. - To Executive Departments, Municipal and County Government

HB 33, guaranteeing freedom of speech, full right to criticism and disclosure for all state employees. - To Judiciary

HB 36, to provide for one additional alternate for the superior court review division. To Judiciary

HB 38, amending RSA 173-A, the dangerous sexual offenders law. - To Judiciary

HB 39, making consistent the criminal code provisions dealing with pre-sentence credit for confinement. - To Judiciary

HB 42, to prohibit employment of illegal aliens and to correct a citation in the penalty provision of RSA 275-A. - To Ways and Means and Administrative Affairs

HB 47, providing for the payment of wages by electronic fund transfer. - To Banks and Insurance

HB 16, legalizing the regular town meeting in the towns of Rye, Lee, Exeter, Enfield, Alton and Madbury; legalizing the special town meetings in the town of Woodstock; legalizing the meeting in Newmarket, legalizing a meeting of the Belknap county convention and authorizing the town of Carroll to borrow money to meet operating expenses. - To Executive Departments, Municipal and County Government

HB 50, providing that town meeting day shall be the second Tuesday in March. - To Executive Departments, Municipal and County Government

HCR 2, instructing the secretary of state to notify town and city clerks not to use literacy tests in registering voters. - To Executive Departments, Municipal and County Government

HOUSE NON CONCURS

SB 5, to make mental illness coverage under health and accident insurance optional for insured groups and subscribers.

SB 4, to make a supplemental appropriation for the veterans' home.

SB 2, specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public and modifying the time requirement for additions or corrections to the checklist.

HOUSE CONCURS

SB 23, reinstating Hesser college as a corporation and ratifying certain degrees granted by them.

SB 15, continuing the solid waste committee.

SB 7, permitting any state agency to return to the sender a check, draft or money order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met.

SB 29, relative to licensing of diagnostic or treatment facilities.

SB 14, to allow a district court justice to establish the court clerk's salary.

SB 28, relative to the registration and operation of mopeds.

SB 8, making a supplemental appropriation to nurses registration board.

SB 19, making a supplemental appropriation for the bureau of markets in the department of agriculture.

Sen. Downing moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn in memory of Edward F. Lecius, Dean of Radio News Broadcasters, News Director of WSMN, who passed away Wednesday, April 21, at the age of 57 in Nashua and also in memory of Bernard J. McQuaid, Editor in Chief of the New Hampshire Sunday News, until May, 11, at 11:00 a.m., unless called into session sooner by the chair.

Adopted.

LATE SESSION

Sen. Gardner moved that the Senate adjourn until May 11, at 11:00 a.m., unless called into session sooner by the chair.

Adopted.

Senate adjourned at 1:55 p.m.

Tuesday, 11 May 1976

The Senate met at 10:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

We need to hear thy voice Lord, as we listen to the constant ebb and flow of our every day contacts with life and all which emulates from the problems thereof. Help us today to sift out the right from the wrong, the harmful from the good. Make us worthy of our stations in the government of this state. Let us not be too hasty in passing legislation, but rather help us to do justly, rightly, soberly and honestly. We ask thy continued blessings and patience. Amen.

Sen. Saggiotes led the Pledge of Allegiance.

Sen. Ferdinando presiding.

COMMITTEE REPORTS

SB 53, relative to workmen's compensation coverage for domestic employees. Ought to Pass. Sen. Rock for the Committee on Banks and Insurance.

Sen. ROCK: In listening to the testimony on this bill, it was the feeling of the committee that we had created some severe problems and a great deal of consternation for the people of our state in the last session of the legislature when we mandated this workmen's compensation coverage for domestic employees. **SB 53** corrects that situation which was enacted by the legislature and under the bill, domestic and casual employees are excluded from the scope of workmen's compensation. The bill repeals the provision requiring the purchase of workmen's compensation insurance for domestics by employers and also the provision requiring certain insurance companies to provide workmen's compensation insurance coverage in conjunction with other policies. In short, what **SB 53** does is put us back one calendar year and corrects what the committee feels was an unfortunate piece of legislation that we enacted previously.

Adopted. Ordered to third reading.

SB 49, relative to the operation of the print shop in the office of the commissioner of resources and economic development. Ought to Pass. Sen. Monier for the Committee on Executive Departments, Municipal and County Government.

Sen. MONIER: The committee heard the reports on this and there was no opposition to it even from DRED. It is a housekeeping bill and it is a first step, or a first piece of legislation, in regard to the overall printing survey that was done by a special committee. The committee was unanimous in its passage and I urge the acceptance of the report.

Adopted. Ordered to third reading.

SB 52, to eliminate literacy tests for voters. Ought to Pass. Sen. Monier for the Committee on Executive Department, Municipal and County Government.

Sen. MONIER: **SB 52** is eliminating literacy tests for voters. We have it still on the books that we do have literacy tests and obviously everyone is well aware that the Supreme Court has overruled this. It was brought to our attention by Sen. Sanborn that it would be best to take this off the books. The committee was unanimous on it. I might add that there is a House Concurrent Resolution coming forth also that would ask the Secretary of State to notify the town clerks. There seem to be some persons in the state that are charged with the responsibility of voting who haven't recognized yet that we don't have literacy tests. This removes from the books an archaic statute which is already outdated. I urge its passage.

Sen. BRADLEY: I understand you to say the reason why we have this bill is because the Supreme Court has said this law is unconstitutional or are you saying that we ought to take it off the books on its own because it doesn't deserve to be on the books?

Sen. MONIER: Actually, I am saying that we ought to take it off the books because it isn't deserving to be there any more and I understand that there are already Supreme Court rulings that affect this any how. We felt, or Sen. Sanborn did and the committee was unanimous, that it ought to come off our books.

Adopted. Ordered to third reading.

Sen. Rock presiding.

SB 41, permitting the placement of persons in need of supervision in certain shelter care facilities. Interim Study by Judiciary Committee. Sen. Bradley for the Committee on Judiciary.

Sen. BRADLEY: This is the so-called PINS bill. It is an amendment to the bill that passed last session. There was a great deal of testimony at the hearing and a majority of the people felt that this needed more study. Our committee recommended that it be sent to interim study.

Adopted.

SB 36, relative to selling sporting event lists by the sweepstakes commission and making an appropriation therefor. Ought to pass with amendment. Sen. Fennelly for the Committee on Ways and Means and Administrative Affairs.

Sen. FENNELLY: **SB 36** is basically the same bill that the Senate passed last session. The testimony in the committee was basically that it would raise 7.6 million dollars in the first year once it was initiated and 15 million dollars in the second year. There is an amendment and the state employees did not want to be associated with the betting card bill. There is also in the amendment authority to the Governor and Council, with the approval of the Finance Committee, to have additional funds for the support of the program. The committee's recommendation was ought to pass and I urge the Senate to vote in favor of it.

Sen. BLAISDELL: Could you give me a breakdown as to who would be included in this betting card bill?

Sen. FENNELLY: All monies received on a profit basis to the state which will be almost 4 million dollars, will go into the general fund.

Sen. BLAISDELL: Will these betting cards be spread over high school athletics?

Sen. FENNELLY: The betting card program will be in the same area as that of sweepstakes. Mr Powers will be running the betting card program if it passes and will have full jurisdiction.

Sen. BLAISDELL: What I am asking is if Keene High School plays against Nashua High School does the Sweepstakes Commission have the right to put that out on a betting card?

Sen. FENNELLY: No, the bill it will not affect any collegiate or high school in the state.

Sen. BLAISDELL: The inter-collegiate, on the pro sports?

Sen. FENNELLY: That is correct and college sports out-of-state.

Sen. BLAISDELL: I am going to vote for this particular piece of legislation because of the 7 million dollars that is spoken of in this bill that will come to the state. I detest it with every moral fiber in my body. Being a college football official, basketball official and college empire I detest it. The tax structure in the state of New Hampshire has changed so that we don't have to depend upon the sin taxes in the state in forcing people like me to vote on pieces of legislation that I detest.

Sen. BRADLEY: Could you explain what the amendment is?

Sen. FENNELLY: I just finished saying it. Sporting event lists may be sold in towns to be elected to permit the sales of sweepstakes but we already have that so we struck that out and also the profits for the sales of sporting events listed is to be deposited into a special fund pertaining to state employees and we struck that out and the third part of it is on the back page of the bill where the financial committee on the Governor's Council with the approval of the Finance Committee, will approve the funds to run it. That is all the amendment says.

Sen. BRADLEY: Could you, in layman's terms, tell me what the thrust of all of the amendments do?

Sen. FENNELLY: The sponsor isn't here but I am sure I can speak for Sen. Bossie. The bill originally was to get a pay raise for the state employees. The state employees came, they were in favor of the bill but they didn't want to be associated with it so we struck that out. The second was in the reference of the towns and cities, we already have it under sweepstakes where they can be sold—they can be sold in the same places so we struck that out with recommendation from the Sweepstakes Commission. The third is the appropriation. That is what the amendments are to the bill. It is the identical bill that passed the Senate in the last session as amended.

Sen. BRADLEY: Could you inform the Senate why the state employees did not wish to be associated with this bill?

Sen. FENNELLY: Basically, they wanted their pay raise on their merits and they didn't want a special bill passed for them generally speaking?

Sen. BERGERON: I thought the money was going directly into the general fund?

Sen. FENNELLY: That is what the amendment says.

Sen. BRADLEY: Could you inform me of the thinking behind this provision which says you can include on your betting cards out-of-state colleges but not colleges located within the state?

Sen. FENNELLY: I don't think that was brought up at the committee hearing. I don't know why the sponsor put it in.

Sen. BRADLEY: Isn't there implication that there is some good reason why we don't want to involve sporting events in our own colleges in the state?

Sen. FENNELLY: I have no idea Senator Bradley.

Sen. TROWBRIDGE: Under the amendment, at the very end of the bill, it says amendment the bill by striking out sections 2, 3 and 4 and renumbering sections 5 through 10 to read as 2, 3, 4, 5 and 6. Section 2 of the bill was distribution of funds, am I correct? You are amending the sweepstakes' law are you not? That is what the thrust of the bill is, to amendment the sweepstakes' law.

Sen. FENNELLY: No, if section 2 was in we would have amended the sweepstakes.

Sen. TROWBRIDGE: So, you are not amending the sweepstakes' law. This means that the entire distribution of these funds will be to the school districts?

Sen. FENNELLY: That could be possible—yes.

Sen. TROWBRIDGE: The money that is going to come in from betting cards will be

allocated to the school districts and not to the general fund. Isn't that opposite of what you just said?

Sen. FENNELLY: That is true.

Sen. SANBORN: Sen. Trowbridge has just raised a little doubt in my mind, however I am still for the bill. As I understood from the committee and from the hearings, all funds would be to the general fund perhaps we need a separate amendment to bring this into line so that this does go to the general fund. In answer to some of Senator Bradley's questions as to why in-state institutions were left out of the bill was basically to help the passage in the House. This was one of the big objections to the bill when it was in the House the last time that there could be betting on local institutions. The basic idea of the bill is to provide some money to the general fund to take care of some of the needs of the state in many lines, to provide wage benefits to state employees and also to help out in many of the other things in which the state provides services to the people. It was interesting to listen in on part of the hearing to hear the Attorney General of the state oppose the bill most vehemently. But under questioning it was further interesting to hear the Attorney General say that if he had been Attorney General at the time of the race tracks he would have been just as strong in opposition, let's take a look at how much money is coming in from the dog tracks today to help take care of the expenses of the state, it is some 9 million dollars. There is 4 to 6 million dollars brought in by the horse tracks. We don't seem to have any objection in using that money to help the Laconia State School, to help the welfare people and to pay our employees salaries, but if the Attorney General had been here on the passage of those two bills he said that he would have been vehemently against them. I was interested also to hear some of our professional sports people, director of baseball, etc., come in and say that they are going to appear personally against this bill if it ever gets over to the House. I wonder if they are opposed to the present betting cards which you can pick up probably right out here on the street of Concord today and at any manufacturing plant of large size. I know that you can pick these cards up and every cent of that money goes to the legal, professional gamblers, the big time people in the gambling field and it seems to me that anyone of us can open up the paper practically any time and see where the gamblers are setting odds on practically everything. Why are they setting odds, for the basic reason that someone is betting on whatever the outcome is, plus or minus whatever odds are established by Las Vegas. We can continue and kill this bill and the professional racketeers are still going to take millions of dollars out of the state of New Hampshire and use it in their own various ways. We can pass this bill and get it through the House and at least the State of New Hampshire will get some of the money back here to help the people of the state. This is a tax on the people but it is a voluntary tax—it doesn't compel one soul to buy a betting card but if at least they do buy it, they are buying it under a method that is legal and provides money to the state.

Sen. BRADLEY: You made a comparison between the horse and dog racing that we legalize and sanction in the state and speak as if there was no distinction between the two. You see a difference don't you between betting on animals and betting on human individuals who may be 18 or 19?

Sen. SANBORN: No I don't, I see very little difference.

Sen. BRADLEY: Why do you think the legislature made those betting cards that you say are out on the street illegal? Why did we say it was a crime and left it a crime all of these years?

Sen. SANBORN: I think that if you used the words sporting cards I think you would have a difficult time finding that in the laws, I may be wrong. However, if you say gambling, I would say it finds other forms of gambling illegal outside of the track which the legislature in its wisdom has turned around and made legal such as the Sweepstakes Commission.

Sen. BRADLEY: I don't think you really responded. The legislature must have had some reason in making it unlawful and the legislatures that have followed it must have had some reason to leave it as an unlawful activity, so don't you concede that whatever that reason was it hasn't disappeared?

Sen. SANBORN: I don't agree with you. For many years they found raffles and so forth illegal but then they legalized the raffle of the Sweepstake Commission, so evidently the legislature, in its wisdom, said we have been wrong in this case and we are making it legal. I think the legislature has that right to say yes we were wrong in a certain case and let's make it legal.

Sen. Downing moved that **SB 36** be laid on the table.

Motion adopted.

SB 39, requiring credit card companies to notify credit card holders whenever their

records are disclosed to any federal or investigatory agency under court order or subpoena. Ought to Pass. Sen. Jacobson for the Committee on Energy and Consumer Affairs.

Sen. JACOBSON: Senate Bill 39 does exactly what the analysis says. It does require the credit card company to notify by certified mail whenever the company's records are subpoenaed by court order or by some public investigatory agency. If they do not report it, they are guilty of a misdemeanor. The committee had no problem with the bill itself. As the members of the Senate will remember an amendment relating to credit cards was added to the bill and that amendment made it more difficult for the various companies issuing credit cards to arbitrarily cancel the credit card. We sent the bill and the amendment back to the committee for a hearing and the hearing was held and the banks and the oil companies came out in force and there were other companies issuing credit cards. The problem is that by a Supreme Court order and by certain kinds of legislation, credit card issuing companies come under the same umbrella so that a small company in Haverhill, New Hampshire which issues local credit cards and the massive oil companies such as Gulf, Texaco, Exxon and the others, all come under the same umbrella. I think we all recognize that there is a world of difference between a credit card issued by a local company and a credit card issued by Exxon, Texaco, Gulf and others. When the local merchant or the customer has a problem in regards to credit, the merchant is there and he can go and deal with the question. When you have a problem with a credit card of an oil company the only one you can deal with is a non-human being which is a computer. Computers tend to be impersonal in many ways. My own feeling is that we cannot pass the amendment as it was originally developed because it falls hard on the local credit card holder. I have suggested to the committee that we investigate this and in some way, and in some manner, we have got to get at the oil company barons with their arbitrary ways. Down in Richmond, Virginia, in Tulsa, Oklahoma and elsewhere they arbitrarily cancel cards and issue and develop interest charges without legislative authorization except with the 42 percent law and intend, by the 19 percent interest charges, to make money on the credit cards. I think we have a responsibility to the consumers of New Hampshire to bring as far as we can, the oil baron under the control of the state. I am hopeful that despite the fact that the oil company can now squirm out from under, that some day we will have them. I asked Mr. Stacey Cole and I want to say publicly that I have nothing personal against Stacey Cole he is a friend of mine, to contact the oil companies and tell them to eliminate your interest charge, cancel the cards in forty-five days if that is the problem, you know what they said—they said they didn't want that because they wanted to make money from the credit card holders. Originally the credit card companies issued the credit cards so they could get more business and usually when you get more business it costs you something but they have a different philosophy, they say look we are going to charge interest on the credit cards, make money by people buying more gasoline and at the same time make money like the bank makes money. There is something wrong with that philosophy. We can't do anything about it today but someday we will.

Sen. ROCK: I sponsored this bill because I saw a danger evolving in Washington and in some of the federal agencies in making searches of your credit card files without your being apprised of that situation. I refer specifically to the cases where the credit card holders of the American Express Company had their records subject to search and investigation under court order and subpoena with no knowledge to the credit card holder that he was being thusly investigated. I was shocked and dismayed to learn in the news this morning that for a period of years the Internal Revenue Department has liberally distributed copies of certain income tax returns that we have been led to believe were sacred and confidential, and we are passing them out to other government agencies. This era of snooping into the private lives of citizens for political purposes or for whatever reason must stop. We are entitled to a certain degree of privacy. If I make application for a credit recommendation to a certain company, I am telling that company that I wish to have them look at my credit record and investigate me. This bill does not address itself to that situation. This bill does not address itself to the situation whereby a credit card holder might be out of the country, might not have made prior arrangements to have his account paid or for whatever reason is terminated by the company. This bill says that if the government is looking at your records under a court order or a subpoena and you don't know about it then the credit card company has to notify you. That is all the bill does and that is all it says and I urge the Senate to send this bill over to the House where I hope it will gain support.

Sen. BRADLEY: I just want to make something clear for my own mind and for the purpose of legislative history, if there is a dispute between private individuals where

the question of these records might be an issue and a subpoena is issued, let's say in the dispute of Smith vs. Jones in the Grafton County Superior Court and Jones subpoenas Smith's credit records, I would read this to say that the credit card company doesn't have to worry about this bill?

Sen. ROCK: The subpoena here is not by an investigatory agency or by federal agency, it would be a civil matter and it would not apply.

Adopted. Ordered to third reading.

Sen. Ferdinando presiding.

SB 32, relative to the land sales full disclosure act. Interim Study by Joint Committees on Energy and Consumer Affairs and Executive Departments, Municipal and County Government. Sen. Monier for Joint Committees on Energy and Consumer Affairs and Executive Departments, Municipal and County Government.

Sen. MONIER: Senate Bill 32 was an attempt to provide protection for home buyers in terms of large developments and other types of condominium growth. Once again, when we got the bill in front of us and got it before the committee, it involved actually interfering with the federal regulations on land sales disclosure in the state of New Hampshire. As a result, the committee felt that it should go to interim study to see if we could come up with something that would simply and basically protect the buyer of a home but at the same time does not apply federal regulations to our land ownership and our land property uses. I urge that the Senate adopt the committee report.

Adopted.

SB 31, relative to limited credits for retailers, vendors and subjobbers of tobacco products and increasing the license fees for wholesalers and subjobbers and retailers of tobacco products. Inexpedient to Legislate. Sen. Saggiotes for the Committee on Energy and Consumer Affairs.

Sen. SAGGIOTES: This bill requires wholesalers of subjobbers to report to the Department of Revenue Administration five days after a person that buys tobacco products from them is delinquent within a seven day period after delivery, then the Department of Revenue Administration would forward a list to the wholesalers and subjobbers of the delinquent account of the various wholesalers and subjobbers and they would not be allowed to sell any more tobacco products to the retail licensee and if they did there would be a fine of ten dollars for doing so. The original bill also increased the license fees of the wholesalers, the subjobbers and the retailers that dealt in tobacco products. The reason for the introduction of the bill by the Senator from the twelfth district was due to the fact that many of the wholesalers and subjobbers who have a lot of debts owed them and are carrying a lot of money on the books, felt that with a bill like this they could get their money back sooner and it would be of great assistance to them. It was the opinion of the committee that this would create a hardship on the small retailer and for that reason the committee felt that it would come in inexpedient to legislate. There is another bill that helped the wholesalers on the tax discount that was introduced and it is in Senate Finance. It increases the percentage of their tax discount somewhat and we felt that they would get some relief in that manner. I understand there is going to be a motion offered to send this to a study committee and I think the committee would accept that.

Sen. ROCK: I appreciate the great number of hours that the committee put in on this and I have some remarks that I would like to make to the subject of the good partnership that we have with the tobacco wholesalers of the state. Considering the senator's remarks from the eighth district and because of the time constraints on us today, I would at this time like to reserve those remarks until we deal with House Bill 48.

Sen. Rock moved that **SB 31** be laid on the table.

Motion adopted.

SB 55, relative to the payment of school building aid money to Sanborn regional school district. Ought to Pass with Amendment. Sen. Brown for the Committee on Finance.

Sen. BROWN: The amendment exempts the town of Wakefield in relation to the present building aid laws to the school districts. The present law states that the schools districts shall receive their building aid over a period of ten years, one-tenth of the amount each year for ten years. This exempts Wakefield from so doing because they have voted to put a small addition on one of their schools and to raise and appropriate the money in one year, this would be a big help to them. At the present time, so testified by the State Board of Education, there is a surplus in the building aid fund of \$162,487.00. I urge its adoption.

Amendment of SB 55

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to the payment of school building aid money to the Sanborn school district and the Wakefield school district.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 School building Aid; Wakefield School District. Notwithstanding RSA 198:15-b, the state board of education shall pay in one grant to the Wakefield school district before the end of the 1976-77 school year all state building aid which the district is entitled to receive under RSA 198:15-b. Said grant shall be paid out of funds appropriated to the state board of education for the biennium ending June 30, 1977.

3 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Sen. BROWN: The original Senate Bill 55 does the very same thing to the Sanborn regional school district to the tune of \$92,000.00.

Sen. Sanborn offered an amendment.

Sen. SANBORN: Basically, what this amendment does is add the Timberlane regional school district for a three-year period. When this bill was taken up in its original form there was something like \$150,000.00 available. When Sanborn and Timberlane school districts put in their request it left the fund at roughly \$51,000.00. If we had entertained the complete request of one-year for the Timberlane school district it would have made a deficit in the fund. I was requested by Senator Downing to try and do the best we could for the Timberlane school district and in actuality this is the addition to the Atkinson Academy that is needed. In discussion with Mr. Tate of the Board of Education, since our discussion in the Finance Committee about the Wakefield and Sanborn areas, another request has come into the Department of Education in an amount of slightly less than \$11,000.00 has been allotted to another school district. This leaves about \$40,000 available under the building aid therefore I went to Senator Downing and told him that we were down to about \$40,000.00 and that the request for \$50,000.00 to the Timberlane school district was spread over a three-year period which would only still leave a small amount of money in the present fund for this year in case some other school district did come in. Senator Downing agreed with this idea and that is why my amendment requests that Timberlane school district should be put on for a three-year period, one-third each year.

Sen. TROWBRIDGE: I rise in opposition to the amendment. I think there is a point where you draw the line. Remember that the school building aid program is based on the theory that the community went through the process of raising a bond issue and in order to raise a bond issue with one or ten years it doesn't matter, they have the two-thirds vote rule. You have to get two-third's vote in order to qualify for school building aid which is the present law. Several communities have misguidedly been informed like the Sanborn regional school district, or misguided at the meeting, that if they decided to raise all the money in one lump sum and take the whole burden in one-year that they could still get their school building aid in one lump sum. This came up as a surprise motion in the Sanborn regional school district by someone saying why do we bother to bond it lets just do it all at once. The school board had no information, they weren't prepared, someone said at the meeting that they could get all their state aid and the community voted on that basis. This is one issue and it was \$92,000.00 of the school building fund. Up in Wakefield the same thing happened and the community decided to allocate its revenue sharing fund at town meeting to the school building thinking that they would get school building aid of thirty percent if they so did and they were misled. In both those cases, we have in Senate Finance, helped, responded and said o.k. you made a mistake, actually the votes were pretty near the two-thirds, there wasn't any real thought of getting around the law. There was a surplus in the account to take care of Sanborn and the Wakefield school district. However, when you come to Timberlane situation you have a separate situation. I should emphasise that in Sanborn regional school district if they didn't get the lump sum of \$92,000.00 of state aid their tax rate would have gone up some \$7.00 a thousand to over \$18.00 a thousand increase in one year, an enormous burden would have been put on the same thing applies in

Wakefield. They didn't have the money, they had an order from the town meeting to build the school thinking they have half of it or thirty percent from state aid and they don't so they don't build the school building, they are ignoring an order from town meeting but they don't have the money. Timberlane is a separate situation. Timberlane has in its savings account \$129,000.00 which it earned as interest on the original bond issued that they raised. They weren't going to spend it all at once so they put it wisely into a savings bank, earned \$129,000.00 on the five million or whatever it was for the bond issue so they have the \$129,000.00 in hand in the savings bank. What they want is to get matching funds of \$65,000.00 of state funds out of the building program right away so that they will only have to spend \$65,000.00 of what they have in the savings bank. It is an entirely different situation than the Wakefield or Sanborn regional school districts in that Timberlane has the funds. They will get paid under normal circumstances if we don't accept the amendment. They will get paid one-tenth of their \$65,000.00 or \$6,500.00 a year for the next ten years. What we are coming to is a situation where a lot of people will say alright, we will raise some money, do it all in one shot and avoid the two-thirds rule and then we will go to the legislature and say please give me all of my money in one year. It just so happens that this year we had a surplus of \$162,000.00 in the building fund but if this goes on any longer and everybody starts taking these one shots, you will find the State of New Hampshire is going to borrow for the school districts in order to pay the lump sum payments to the school districts. Sen. Bradley asked where you draw the line and its tough but I think you certainly can draw the line between a community which has the money in the bank and if they take it out of the bank and build the addition there will be no particular axe impact on the community. Whereas, with the one like Sanborn, if we don't give them the lump sum now, which they mistakenly believed they would get, you will have an enormous impact on that particular community. Our feeling in Senate Finance, and the reason we did not put this amendment on in the beginning, was that we thought that the two things were distinguishable and that we would be creating precedent here that you could not argue to any other school district another time. You are beginning to show the way to anybody who says look we can't get two-thirds for this school; we can't get two-thirds for the bond issue; let's appropriate it all at once, run to the legislature, get our Senator and our representative and say to the state bring it all up now. If you want to do that fine and dandy, if you want to, really in essence, change the law on how you raise bond issues and how we pay school building aid, go ahead and vote the amendment, but I assure you that we are on the wrong track. We are suppose to be responsible for these funds in an orderly way. We are going to have to at sometime say no to a community who knowingly having the money decides they have other needs in the school district which they can use the money for, fair enough but one at a time.

Sen. MONIER: If you have discovered a loophole by which they are doing this then I suggest that we also get an amendment prepared to close the loophole so that we don't have to worry about it in the future.

Sen. TROWBRIDGE: One thing we have done, I have informed Mr. Tate of the Department of Education that if any school District who has a building program coming up and a school district comes in and says they didn't know that you can't get it in one-year, Mr. Tate is going to be personally responsible. There is no reason for the school boards who know they are spending a building program to the public to not know the answer that if you do it in one shot you are not going to get school building aid in one shot. I think that the information being out in this debate will make it clear to the communities that they can't do it and the next time around it is going to fall on their peers.

Sen. MONIER: Are you saying that theoretically the law allows this? My point is that I would like to correct the basic issue?

Sen. TROWBRIDGE: We would not have these special bills if it weren't for the fact that we have to change the law to give them money. The law is very clear, it says thou shalt get one-tenth or your principle payment. Let's say they put it over three years, you would get your principle payment on your bond issue, if it is only three principle payments you will get it in thirds, most people go ten or twenty years so it spreads out longer. The law is clear at this point, it's just that the people in Sanborn got caught and didn't know the law. Now I am saying that there shouldn't be anybody in the educational world of this state who doesn't know that if someone comes up and says do it all in one year the answer will be fine, but remember you are going to get your school building aid in segments of ten. I don't think we have to change the law, we are changing the law now with these bills.

Sen. DOWNING: I rise in support of the pending motion and the amendment. What

the distinguished chairman of the Senate Finance Committee says is true, however it would appear that if you follow what he said that to deny this amendment would be to penalize the school district because it prudently invested its money. That is, because the funds were invested and they earned savings and these savings are available for this particular debt that we shouldn't help them. I really don't see how it differs from the other two school districts in that bill other than that. However, I do recognize that there is a priority and I feel that the priority should go first to the Sanborn school district and secondly to Wakefield but I see no harm and I think we are obliged to help any school district in this state if we can help. Its tough enough funding education and it doesn't matter what community you are from. When the vehicle is before you and the opportunity is before you and you have the funds and you can help a school district in this state I think you ought to do it. I think you ought to feel obliged to do it. Never mind the technicalities, never mind this business of we are going to set a precedence, people are going to be coming in and they are going to feel this is the way, if the money isn't there there is no way they can do it. The fact is that the money is there, we have a school district that is in need and we ought to help them. Sen. Sanborn has offered an amendment by way we can help a school district and I think we ought to do it. I urge you support the amendment.

Sen. TROWBRIDGE: Sen. Downing, why wouldn't it be just as logical if we had a little money left over in the fund to offer an amendment to allocate extra school building funds or accelerated payments to the Convall school district which has gone through the process, has obeyed state law. I would be glad to help that school district.

Sen. DOWNING: Senator you mentioned that to me previously and my answer is the same. I have no objection if you want to help any school district if you feel that they deserve it, they warrant it and its program is such that it is open to that type of aid, fine. All I know is that along the southern border we have particular problems with the blossoming population and keeping up with school building costs. It is no easy matter to float a bond issue down there or anything else, so the school board is constantly right to the wall trying to find ways that they can get the money together so they can expand the school or get on with a different program. They found a method here, we can give them some help, the money is available and I think we ought to help them.

Sen. TROWBRIDGE: With everyone knowing that Timberlane has \$129,000.00 which is adequate for the job, how do you justify giving \$65,000.00 to Timberlane or the amended version, when we don't give it to Nashua or any other bordering town? Where do you make the preference?

Sen. DOWNING: I think the difference is that Timberlane has the opportunity and has presented to you where we can help them. Nashua hasn't come in for help. Nobody else has come in for help. The same thing applies on my answer to you on the Convall school district—if, in fact, they have a vehicle we can help them and if they have a need and the Senate decides to help them—great. I think the Senate should help any school district it can. The legislature should help any school district it can. We have a particular problem, we have a set of circumstances. The \$100,000.00 in the bank is nothing compared to the amount of money that school district needs to fund the project it has ahead of it. It will never catch up even with this help. But with this help it at least shows that the legislature will help when it can help.

Sen. MONIER: The understanding of what we are hearing here on the floor, is that there is \$125,000.00 or \$135,000.00 in the bank now. Under this amendment, they get \$65,000.00 more. My question is, are they going to spend the \$125,000.00 plus the \$65,000.00 in this year or not, or are they going to take the \$65,000.00 and use it and leave money in the savings account?

Sen. DOWNING: I can't tell you exactly what they are going to do. I can tell you that first of all they are not going to get the \$65,000.00 this year, the amendment would give them the building aid over a three year period instead of a ten year period. I'm sure they haven't committed the money any place else at this time. If they find out that we are going to do the right thing and give them the money then they will plan what they are going to do in the future.

Sen. MONIER: What I am asking, and I don't care if its this year or next year, of the money they have in the bank plus the money they would get from this amendment, is it spent now or are they going to windup with money in the bank?

Sen. DOWNING: If I understand you correctly, the money they have now in the bank is committed to the project. If the state gives them the relief that we are able to give them then they will free up the money to do other things with.

Sen. MONIER: Do you know now what the Timberlane school district is going to do

with that money? Is it programmed or are we just giving it to them so they can spend it later?

Sen. DOWNING: No sir, we would be giving it to them to relieve a present burden which in turn would free up the funds for other work. They can't commit those funds until they know what we are going to do.

Sen. MONIER: If they do not get this relief then the money that they have committed themselves to spend, they have money on hand to spend it?

Sen. DOWNING: Yes.

Sen. BROWN: I rise in support of the Timberlane amendment, although according to the Senate Finance Chairman of which I agree, we do have a more legitimate case in relation to the Sanborn and Wakefield school district, but I do think that if we are going to give it to Sanborn and Wakefield and of which there is also a balance in there which will cover the Timberlane thing, to be fair in giving it to the others. But I do agree that the school districts throughout the state should definitely be notified that no way can this happen again, that we follow the ten year law in the future.

Sen. BRADLEY: I oppose the Timberlane amendment for the simple reason that it seems to me in this case there is no way that we can start a bad precedent. I am satisfied with the other two cases. We can draw the line and we can close the door. I don't see how you can give Timberlane and draw the line with every other school district that is going to float a bond issue. I don't think Timberland has that kind of sympathy, although I am sure they have their financial problems. This would be sort of like interest on interest on interest. We have already given them the state aid on the original bond issue. In a sense, they voted too much into their bond issue because they had some money left over. If they had been a little better at planning they wouldn't have voted such a high bond issue and they wouldn't have had this surplus. It seems to me we can't help but create a precedence and encourage school districts to vote bond issues that are too high in the hope that it is going to generate excess interest which they then can spend and then turn around and ask the state for some more aid. I'm all for helping school districts and giving them more aid, but it seems we have to do it uniformly and we ought to use it in the wisest ways possible and this is not one of those cases.

Sen. SANBORN: I want to correct the Chairman of Finance on one small matter. I did not say that I have received a further request, I said that Mr. Tate had told me that under the ten year law he had received a further request that he did not anticipate. As he appeared before the Senate Finance Committee, he said that to his knowledge there were no other school districts coming in for funds and that there was \$160,000.00 left over from the appropriation and that they didn't know who it would go to. I would like to say to Senator Bradley that I don't believe districts come with too high a bond issue as he indicated in his remarks. Usually they come in for a bond issue for the total cost of what they anticipate in the way of school expansion, however, usually on a contract of that type so much is spent at the opening of the bid, so much at some extended period of construction and the final amount is not paid over until the acceptance of the project. The project may be a two or three year project. I think that Timberlane was very smart in investing those funds until they had to make the final payment on that project.

Amendment to SB 55

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to the payment of school building aid money to the Sanborn and Timberlane regional school districts and the Wakefield school district.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 School Building Aid; Timberlane Regional School District. Notwithstanding RSA 198:15-b, the state board of education shall pay to the Timberlane regional school district beginning in the 1976-77 school year the full state building aid in 3 equal grants, and not in 10 equal annual grants, which the district is entitled to receive under RSA 198:15-b for the construction of an addition to the Atkinson Academy. Said grants shall be paid out of funds appropriated to the state board of education for school building aid.

4 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Ordered to third reading.

Sen. S. Smith presiding.

SB 26, requiring persons convicted of driving while under the influence of intoxicating liquors or controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program. Without Recommendation. Sen. Trowbridge for the Joint Committees on Finance and Public Institutions.

Sen. Trowbridge moved that the words Ought to Pass with Amendment be substituted for the words Without Recommendation.

Sen. TROWBRIDGE: This body sent Senate Bill 26 to the Finance Committee to look at the financing parts of the original bill. You will recall that it provided on first conviction of DWI that a person would have to go to school and would have to pay fifty dollars to a special fund to fund the driver retraining program. In investigating the budget, we couldn't be sure as to how much money was involved. We weren't sure as to how many people would go to the school and the more we discussed it, the more we felt that the driver retraining school was most important and that we should really make it a viable part of the laws of the State of New Hampshire. In our discussion, we came across the fact that Massachusetts had changed its law on DWI and that there seemed to be a better way to handle the first offense of DWI in order to make sure that people who had been caught with over the limits of alcohol on the road, would be informed of the seriousness of their offense and would be retrained. So, you see before you a full scale amendment on Senate Bill 26 which is the result of our work. It makes a radical change in the law as it now stands. Basically, what happens under the Massachusetts' law, which we are more or less adopting, New York has more or less the same type of law, if a person is on first offense for DWI he can choose to go to the school or he can choose to be convicted and lose his license for 180 days. If he chooses to go to the driver retraining school, he will pay \$200.00 which is the same fee that is paid in Massachusetts so there is no difference between the two states. He will not be convicted. He will not lose his license as long as he is going under the probationary period of one year. It will not take a year to go to the school, it will probably take only ten sessions but the point is he is under the sword of the court for a whole year. During the time he takes the course and if the people who are running the course, the Department of Public Health, feel that he has successfully completed the course, they will write to the judge and say he has and that they do not feel he is a threat to society. He will not lose his license. His insurance company is not informed and his insurance rate does not go up. He has been able to keep his job if he relies on driving to get there and he can drive himself to the school. We have minimized the harm to the first offender and he has a chance to work himself out of the offense. If, during the period of one year, he has any offense for DWI he will go back to the court and is then considered a second offender and the second offense mechanism goes into work which is three years loss of license and it takes seven years to work it off the record. We are not doing anything to help a second offender. We are doing it completely to try and get the first offender into a program where we can find out whether he is a problem on the road or not and, if he is not, to let him go about his business having been retrained. Going through the bill as it is before you, section 1 would require the executive director to establish a driver alcohol retraining program. It directs him to setup the instructional and rehabilitative aspects of the program including form content, duration and method of presentation. We have to be a little open here because we want this program to go and we don't know exactly how it will go. Section 2 amends the law concerning driving under the influence of liquor and controlled drug. It increases the maximum revocation period for a first offense from sixty days to 180 days. In other words, if he takes the offense and says I want to be convicted and I don't want to go to school, his license will be taken for 180 days. It also provides that if a person is convicted under this section or has had his case dismissed under the new program within the preceding 7 years, then upon conviction of a new offense he will lose his license for 36 months. It is tougher on the second offender. Section 3 sets up the mechanics of the driver alcohol retraining program. A person charged for the first time of driving under the influence can choose to be placed on probation by the court for one year, if he agrees to go to the school, and pays \$200.00 for the program. A provision is made for indigents who cannot afford the \$200.00 and they will have to pay as much as they can and the court agrees. If he chooses to go to school a confidential record will be maintained in the Division of Motor Vehicles, and access to that record will be limited. Violation of this confidentiality is punishable by a misdemeanor. If the defendant successfully completes the program, and upon favorable recommendation of the Division of Motor Vehicles, the court will hold a hearing and dismiss the case for the original DWI without a finding. If the defendant fails to successfully participate in and

complete the program, the court will be notified and shall revoke the defendant's probation, find him guilty and revoke his license for not less than 180 days nor more than 2 years. Section 4 sets up an appropriation for the Department of Public Health, a regular new program appropriation unit of \$350,000 to fund the program for the fiscal year beginning July 1, 1976. All the monies from this will go into the general fund. Also, to protect the courts who are now getting fees from DWI, \$25.00 of the \$200.00 will be sent back to the court who had jurisdiction in order to substitute for the amount of money that they now receive on DWI. Massachusetts' program is in place and seems to be doing very well. This seems to get at the problem without penalizing a person who may have one DWI in his life, he goes out to a party, he gets caught, he is not the type to do this habitually and this way he can go ahead with his life, work it off, get informed as to the real dangers of DWI and not have it show on insurance costs and so forth. Now, he gets fined \$150.00, he loses his license and his insurance goes up \$300 to \$400 which is a pretty heavy penalty for a one time shot. Nothing is here to lessen in any way the second offense. We believe that there are some 4 to 6 thousand DWI cases each year. Some are from out-of-state and the person may very well take a conviction because all he loses is his right to drive in New Hampshire. We are estimating that there will be some 4,000 people, about two-thirds, who will go through the program in a year. At \$200 a piece it would be \$800,000 but we will be given back \$25.00 to the court so it is diminished to \$600,000—\$700,000. We are appropriating \$350,000 for a year to the school. At present State Police get a portion of the DWI fines. This will go into the general fund and what is left over from the school, the difference between those, will be allocated back to substitute for the money that would have come into the state police from the fines. Sen. Foley brought up a good question—isn't there something wrong with a school that depends on income from people arresting, then the arresting authorities may say we are running out of money let's go out and get them. This will be avoided because there is no fine and the police will not be getting funded out of their own pocket. I do believe that we have taken care of that undesirable aspect under the present law which is on the books. We recognize that this program will not be finalized in the next six months and that when we come back there will be adjustments to this program. Our committee was unanimous in feeling that this was a better way to go than the original Senate Bill 26 which hit the guy with a conviction, the fine, an insurance raise, plus the fact that he couldn't drive to the driver retraining school. We also think it is desirable to have a similar program across the border with Massachusetts where we provide that an out-of-state person can take our course and vice versa so that we have some reciprocity across the border where so many of our citizens pass.

Sen. BERGERON: Senator, would you believe that some people consider this bill abominable? Could you believe that I don't particularly care to be modeled after anything that Massachusetts does? Why, in the infinite wisdom of your committee do you feel it is necessary to let a drunken driver off the hook?

Sen. TROWBRIDGE: The biggest problem they have with DWI is making sure that they don't do it again. Obviously, by the time they are convicted they have done it once and there is nothing you can do to reverse that. The question is, are they going to do it again. What we want to do is to send them to the driver retraining school so these people can take a look at them and see whether they are habitual type or not and isolate out those people who we think are going to be a future problem. This is the real purpose of the whole thing. You can't stop the first one.

Sen. BERGERON: How soon from the time the man is picked up does he have to go to school?

Sen. TROWBRIDGE: The executive director will set up the rules for the school. As soon as the guy goes into court and says he wants the program, he is then assigned to the school and put into a location. He has to go and if he doesn't show up he goes back to the court and he is convicted.

Sen. BERGERON: In your hearings, were you given any statistics as to the carnage, the recklessness, the loss of life, the loss of property, that these first time offenders create?

Sen. TROWBRIDGE: Yes.

Sen. BERGERON: You think that is perfectly alright?

Sen. TROWBRIDGE: What we are saying is that he has done it and he now has the option of being convicted or coming into this program. We agree that DWI is terribly important and the best way to deal with it is to make sure it doesn't happen again. By the time it happens once it is done.

Sen. BERGERON: What you are proposing gives me two bites at the apple. I know I shouldn't do it but now I have an escape. Should it happen all I do is pay my \$200.00, I

go to school and I'm off the hook. Isn't this apt to make me a little more careless?

Sen. TROWBRIDGE: That is a good question. Here you have the situation that he knows if he does drive while under the influence he has got to put down \$200.00, go 10 separate weeks where he has to be at the school, he isn't getting away scott free. He has to put up the money, he is under supervision, he has a whole year under probation. If he steps out of line at all he can be convicted even though he went to the school and this gives you a pretty good strangle hold on that person, plus 180 days instead of 60 days if he does not go through the program.

Sen. BERGERON: At your hearings was there any input from either the Judiciary, the law enforcement people or the New Hampshire Traffic Safety Committee?

Sen. TROWBRIDGE: Traffic Safety no, the Judiciary no, State Police and others have been contacted, and they did not attend because we didn't know what we were going to do.

Sen. BERGERON: Don't you consider this change a little bit too drastic to have us act on this today without at least a public hearing?

Sen. TROWBRIDGE: The committee was looking at Senate Bill 26 as it originally was and there was very little sentiment in the committee to pass Senate Bill 26 as it was. We felt that it wasn't going to accomplish anything. We recognize fully that we are bringing before you a new amendment, a change in the law that is rather drastic but it was the unanimous opinion of the committee that this was the best thing to do. Otherwise, we would have come back with a bill that we felt was inadequate and would be a real waste of time. This is a Senate Bill and it will go to the House and the House will have a hearing. I am not at all confident that this will survive through the process.

Sen. ROCK: I commend your committee and wholeheartedly endorse the concept you have put before us today. I think it is a great step forward to help the person with a job, many have lost jobs and families because of the loss of the car and we are tying him very tightly to a program which I think can succeed and we are also helping to prevent the skyrocketing insurance cost. How do we know that the insurance industry won't find a backdoor to sneak through to say you attended the school and therefore you are a "higher risk" and we are going to increase your premium?

Sen. TROWBRIDGE: I don't have an answer to that. It has been brought up and this is why we have the confidential record and a misdemeanor for anyone who gives it out. We made it a confidential record and a misdemeanor for anyone who gives it out. We made it a confidential record by statute in order to prevent anyone, or the insurance companies of making reference to attendance at the school. I can't say positively that the insurance companies won't do something, maybe we should do something to take care of that.

Sen. ROCK: As we presently view the offender, he is apprehended and charged with a violation of driving while intoxicated; he goes before an open court and the judge makes a finding; the press reports; the individual is arraigned and either pleads or requests a trial and it is a matter of public record. Do I understand that we are going to give some confidentiality to this person so that he can follow the recommendations of this bill, go to the school and be retrained in a manner that would preclude that kind of humiliation and exposure?

Sen. TROWBRIDGE: I can't say that we have changed anything on the fact that he has been arrested for DWI. He is still arrested and he goes before the court. However, the case is continued and there is no finding, no trial and to that extent if he has been humiliated for having been arrested for it then there is nothing we can do about that.

Sen. ROCK: You referred to the fact that on a second offense this would count as a first offense notwithstanding the fact that he did not get the clobbering from the insurance company and not lose his job, his license and so forth. You referred to the second offense automatically taking hold and a 36 month suspension. Is it your understanding that that now is mandatory.

Sen. TROWBRIDGE: We haven't changed second offense at all.

Sen. ROCK: Is that 36 months mandatory or does the judge have some discretion?

Sen. TROWBRIDGE: I think he has a little discretion but I think in essence it is mandatory. I believe it is standard.

Sen. BLAISDELL: When the driver is charged with bodily damage it has nothing to do with this program. He still has an offense there?

Sen. TROWBRIDGE: If he is driving recklessly it is a separate count and would be dealt with as a separate count. It is only the DWI count that is continued.

Sen. MONIER: Suppose there was something else involved in the first offense when he was picked up, for example an accident or death or anything else, and he is charged with it, then are these records confidential?

Sen. TROWBRIDGE: As I understand it, you are brought up for a separate account. If he is convicted of reckless driving and DWI, the reckless driving would not be confidential.

Sen. MONIER: If he is charged with something else, in which the DWI is pertinent evidence and he opts for it, is that evidence not able to be used?

Sen. TROWBRIDGE: I would think it would be. At that point they could say its reckless because and including, the fact that he was drunk while driving. That is evidence for the recklessness but it isn't for the DWI.

Sen. MONIER: Say he gets a second offense or he does not continue his operation or he gets his second offense while he is in operation because there are some statistics that show that this has happened, then does all of the material regarding his first offense become public record for insurance companies, for other drivers, for the judge's consideration, etc?

Sen. TROWBRIDGE: Yes, because he is then convicted of the first offense and the second offense.

Sen. MONIER: Now it is a matter of record that he has two and not one. Under the current circumstances, were there any statistics provided to the committee about two things: (1) recidivism as a matter of choice of those people who have gone through the program and (2) how many of the people trained are actually first offenders?

Sen. TROWBRIDGE: Of the statistics that I heard, the first offender is the biggest of the group that go through the course.

Sen. MONIER: Do you know what percentage this is of DWI in the state?

Sen. TROWBRIDGE: Yes, 80 percent are first offender people and most of them never repeat. We don't have statistics of how many are recidivism from the school because it hasn't been there long enough. That didn't come up because we were headed in the direction that the school was a good program. Our biggest safety factor is to get these people into the school where they can be observed by a counsel, by someone who can recognize the problem drinker when he sees them and knows how to deal with it. Whereas now, you convict them and they go off and you have no more of an idea as to whether he is out there drinking every night or not.

Sen. MONIER: I am disturbed with the problem drinker aspect. If they are problem drinkers why would they be that one guy that would make that one mistake?

Sen. TROWBRIDGE: They don't have to take them off probation until they are sure that this is someone who should go back out on the road. I am sure that all of us have had a friend who was not a problem drinker and got caught for DWI. He learns his lesson and he never does it again and it is these people we are trying to protect.

Sen. FOLEY: I think you have done a great job. Could you give us a breakdown of permanent personnel services? Are these the teachers and the people who will take care of the records?

Sen. TROWBRIDGE: These are the teachers who will be at the school. The cost for last time around was \$204,000 so we are continuing the school at the estimate that we have of running the school. On top of that, we have the court repayments of \$75,000 and also current expenses and equipment which was really not in any budget before and we thought it was better to do this instead of having them shift things around through Governor and Council which is what they are doing now to make a regular PAU out of them. We have isolated out the amount of money that is necessary to run the school, especially since by March of next year some of us will be back and we can look at this program. I have no questions in my mind that there will be modifications to some of the school, the training and everything else. We all recognize that and it is just a matter of which route you are going to go.

Sen. SANBORN: Didn't Mr. Trow say that he did not clear his files for seven years so that if someone comes up with a second offense they will get the second offense?

Sen. TROWBRIDGE: That's right. You have a seven year program with the Department of Motor Vehicle as well as Mr. Trow. You don't clear the first offense until seven years and that is the present law now and will remain the same.

Sen. BOSSIE: On page 4 of the bill, what is the out-of-state travel for?

Sen. TROWBRIDGE: We are talking about down in Massachusetts and over to New York. It is basically to keep in touch with the programs there because it will be very useful to see how these programs work in tandem. We normally have a \$500 out-of-state travel in almost any program.

Sen. BOSSIE: What assurance do you give us of the individuals who teach in this school will be qualified? Are we going to have people who don't drink or are we going to have people who do drink? Are we going to have people who were convicted of DWI? What sort of people are going to be teaching?

Sen. TROWBRIDGE: I think the people we have now are a fair cross section of the population. I don't think it is on the basis of whether they drink or not. It is whether they are trained to recognize and have been through courses in alcoholism and drug abuse. Mr. Trow has people on board who are trained in this field who know what to do with people and how to recognize their problem.

Sen. BOSSIE: Don't you think we should have an amendment to the bill saying that this program will be re-analyzed next year?

Sen. TROWBRIDGE: There is no doubt in my mind that this will be re-analyzed next year very hard. I don't think you need any amendment to say that this will be reviewed come next session. If we don't do it now the whole program will end July first. What we are saying is, we have these people on board and we have the makings of a program but we have never really given it a push from the state saying this is our policy and that you must go to the school.

Sen. POULSEN: Under the present law, under the first offense for a drinker, the penalty is much more severe for a rural man than for a city man. He frequently loses his job because he doesn't have transportation. Under your amendment, do you think you have equalized the severity of the penalty?

Sen. TROWBRIDGE: Again, on first offense if the man lives in Twin Mountain he retains his license, he has to go to the school maybe ten times in a row. He can't miss but he can still maneuver and he doesn't have to get a neighbor to drive him 80 miles to the school. We took this into consideration greatly. Massachusetts is different than we are because we have longer distances to drive to get to the regional school area. It is fairer to everyone involved.

Sen. JACOBSON: I rise in support of the proposed amendment as offered by the committee, as the original sponsor of Senate Bill 26. I think the approach that is now being made has a twin positive affect. One is that it seeks to address itself to the sociological problem of the person who has transgressed the law in the form of DWI. So often times in these problem cases and the same goes to the problem of drug abuse, we hammer at the legal question and give little attention to the heart of the problem which is the sociological question. On the other hand, it also protects in terms of the legal question, when the person does not fulfill his obligation in terms of going to school and secondly when he fails to learn his lesson. I would like to underscore what Senator Trowbridge said with respect to the fact that when he gets to court in the first instance there is nothing you can do about it. He has been DWI. Under this law also, he may file and say that he is innocent of the charge and he can go to and be dismissed, so that option is also open to the individual. If that option is not a viable one then he has two options of taking the court route or taking the school route. We are making progress in this area and I know that often times it is very hard to plow new progress when it requires a change in social attitude. I am hopeful that the Senate will support it and that the House will support it and that we can continue this program. I might also say, as I understand the statistics, the recidivism rate of those who have gone to school is one-third less than those who do not go. If for only that reason, we may be saving several lives in the long run.

Sen. FERDINANDO: I would like to answer Senator Rock's question as to how the insurance companies find people who are convicted of DWI. Mr. Lewis' department is responsible for taking their licenses away through legal moduses and the only time they can get their license back is when the filing is made with a particular department so this in no way will change under any circumstance.

Amendment to SB 26

Amend the title of the bill striking out same and inserting in place thereof the following:

AN ACT

relative to a driver alcohol retraining program.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Executive Director, New Duties. Amend RSA 172:8 (supp) as amended by inserting after paragraph IX the following new paragraph:

X. Establish and conduct a driver alcohol retraining program. He shall establish by

regulation the instructional and rehabilitative aspects of the program including the form, duration, content and method of presentation.

2 Period of Revocation Extended. Amend RSA 262-A:62 (supp) as inserted by 1963, 330:1 as amended by striking out said section and inserting in place thereof the following:

262-A:62 Intoxication or Under Influence of Drugs. Any person who is convicted of operating or attempting to operate a motor vehicle upon any way while under the influence of intoxicating liquor or any controlled drug shall be guilty of a misdemeanor and his license or non-resident operating privilege shall be revoked for a period of not less than 180 days nor more than 2 years. Where imprisonment is imposed, it may be served intermittently or on weekend days, at the discretion of the court. Upon conviction based on a complaint which alleges that the person has had a prior conviction in this state or another state or whose case was dismissed under RSA 262-A:62-c and said prior conviction or alternate disposition under RSA 262-A:62-c was within 7 years preceding the date of the second offense, the license of said person or non-resident operating privilege shall be revoked and he shall be ineligible for a license for the next 36 months.

3 Driver Alcohol Retraining Program. Amend RSA 262-A by inserting after section 62-b the following new section:

262-A:62-c Alternate Disposition.

I. In this section "director" means the director of the driver alcohol retraining program.

II.

(a) Any person except as provided in subparagraph (b) who is charged under RSA 262-A:62 shall if he chooses be placed by the court on probation for one year and the case shall be continued without a finding for one year. As a condition of said probation the defendant shall be assigned to the driver alcohol retraining program under this section. A person choosing to participate in this program shall retain his license or nonresident operating privilege.

(b) No person shall be eligible under this section if within 7 years preceding the date of the current offense he was convicted under RSA 262-A:62 or his case was dismissed pursuant to this section.

III. If the defendant chooses to participate in the program under paragraph II, the court shall refer the defendant to the director and the defendant shall pay \$200 to the director. If the defendant by affidavit states that he cannot pay the \$200 the director shall make an investigation as to the financial condition of the defendant and may, after such investigation, require the defendant to pay the \$200, waive the payment, or require the payment of a lesser amount. All monies received by the director shall be paid to the state treasurer who shall deposit same into the general fund of the state. If the defendant pays \$200 the state treasurer shall return \$25 to the court specified in paragraph II, and if a lesser amount is accepted under this paragraph, the court shall receive a pro rata share of the \$25.

IV.

(a) Notwithstanding RSA 172:8-a, the director shall notify the division of motor vehicles of the defendant's entry into the program and the division of motor vehicles shall keep a confidential record of the same. Access to this record shall be limited to members of the judiciary, probation officers, police officials, the director of the driver alcohol retraining program, and the executive director, program on alcohol and drug abuse or his designees. Any person who grants access to or knowingly allows access to this record and its contents to other than those persons specified in this paragraph shall be guilty of a misdemeanor.

V. If the defendant successfully completes the program, the director shall notify the court and the division of motor vehicles. Within 30 days after the date to which the case is continued, the court shall hold a hearing and upon receiving a favorable recommendation of the division of motor vehicles, the court shall dismiss the case.

VI. If the defendant fails to successfully participate in and complete the program, the director shall immediately notify the division of motor vehicles and the court. The court shall immediately revoke the defendant's probation, find the defendant guilty under RSA 262-A:62 and revoke his license or nonresident operating privilege for not less than 180 days nor more than 2 years.

VII. Any person not a resident of this state may proceed under this section and may under the supervision of the director attend a driver alcohol retraining program in another state having a similar program to that of New Hampshire as determined by the director.

4 Appropriation.

1. Amend 1975, 505 by inserting after 1.05, 03, 05, 10, 04, 92 the following new section:

05 Driver Retraining Program

10 Permanent personal services	204,205
20 Current expenses	23,540
30 Equipment	12,000
62 Benefits	20,421
70 In-state travel	13,500
80 Out-of-state travel	500
90 Court Payments pursuant to RSA 262-A:62-c, III	75,000
Total	349,166

Estimated source of funds for
Driver Retraining Program
General Fund

349,166

II. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

III. The executive director, program on alcohol and drug abuse may employ such additional personnel as necessary to implement the driver alcohol retraining program providing such employment is in accordance with state personnel regulations and within available appropriations and funds.

5 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Sen. Bergeron is recorded as being opposed.

Sen. Bossie moved that SB 26 be laid on the table.

Motion adopted.

RECESS

OUT OF RECESS

Sen. Ferdinando presiding.

SB 48, relative to the appropriation for capital improvements at the state prison. Ought to Pass with Amendment. Sen. Brown for the Committee on Finance.

Sen. BROWN: The amendment to Senate Bill 48 is really the bill. The first part of the bill relates to the state prison. You will recall that in the 1975 capital budget there was 1.1 million, 535 thousand, 700 hundred dollars allocated to the state's prison for the items so designated. This part of the bill reallocates the money and the items that were in the 1975 capital budget plus the debts from item (i) to item (n) which are additional. This is in conformity with the prison report and also, the Warden of the Prison and Public Works and Highways has agreed with the Senate Finance Committee. The footnote in relation to the contingency fund, item (n) says that only items (a), (f) and (g), can use this money. The committee felt that there were adequate funds to do the other jobs. Section 2 is the legal wording to accomplish what I have explained. Section 3 of the bill changes the operation and maintenance of the plant. In the first year, the last item under maintenance repairs, it reduces it from \$56,700 to \$39,575. This is a reduction of \$17,125 and the reason for it is that some of the items are included in the first part of the bill. Section 4 of the bill, under the present law they cannot makeup contract plans because they have to receive contributions of over \$1,000,000. With this they will be allowed to design plans, with no construction. This is at the request of the Mount Washington Commission and the Commissioner of the Department of Resources and Economic Development. Section 5 is the Highway Betterment Appropriation. In 1973 there was a bill passed appropriating \$3,000,000 to the Betterment Program of the State of New Hampshire and that bill read for the years 1974-75. It was the opinion of the Comptroller and Public Works and Highways that all capital bills that passed had a lifetime of three years unless otherwise specified. The bill read 1974-75 and all this bill does is extend it out to 1977, so that we can fulfill two contracts which they have put out to bid. Section 6, the capital budget of 1975 in relation to DRED and the warehouse of the Forestry Department, stated that the warehouse was to be built at

Bear Brook. The Commissioner of DRED and the Senate Finance Committee felt that it would be more centrally located if it were built in Concord. You would be able to get emergency equipment to all parts of the state. So, the change in this is only that Bear Brook was taken out and there is no change in the funds. Section 7, in the 1975 capital budget we appropriated the money to renovate Spaulding Cottage. The director there wants to put an exercise fence in the back for the patients. There was a question as to whether he could do it or not because of the wording in the capital budget. The money is there, they need no added funds so the words exercise yard fence has been added so that he can do it.

Amendment to SB 48

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Individual Projects and Appropriations Changed. Amend 1975, 504:1, XI by striking out said paragraph and inserting in place thereof the following:

XI. State Prison*

(a) Food Service and dining facility rehabilitation	\$100,000
(b) Receiving and shipping facility	75,000
(c) Industrial building	200,000
(d) Equipment for prison industries	30,700
(e) Recreational equipment	10,000
(f) Rehabilitation of emergency generator including emergency transfer equipment	55,000
(g) Facilities, engineering study and preliminary layouts for prison complex	200,000*
(h) Rebuild parking area to be located southwest of tenement building (own forces)	15,000
(i) Interim rehabilitation-prison and prison farm	380,000
(j) New shower facilities to be located on the exterior west wall at the southern end of the main cell block	60,000
(k) Prison service road	55,000
(l) Fire safety improvements at the prison, prison farm and Shea farm—to include recommendations of the state fire marshal	100,000

- (m) Consultant fees for subpara-
graphs (a), (b), (c), (f),
(i), and (j)

65,000

- (n) Contingency

100,000

Total Paragraph XI

\$1,445,700

*The following individual project appropriations shall not be transferred or expended for any other purposes except that transfers may be made, subject to the approval of governor and council, from subparagraph (n) to subparagraphs (a), (f) and (j) only.

**Not to be reduced by federal funds received.

2 Bond Authorization Total Reduced. Amend 1975, 504:7 as amended by striking out said section and inserting in place thereof the following:

504:7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2 and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$27,767,286 and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for the purposes of section 1, subparagraphs IX, (d), (e) and (f), subparagraph X, (d)- (7), (8) and (10), paragraph XVI, and section 3 (furnishings and equipment) of this act shall have a maturity date of 5 years from date of issue; the project detailed in subparagraph VIII, (a) shall be financed by a 4-year note; and the bonds issued for the purposes of section 3 (construction) of this act shall have a maturity date of 30 years from the date of issue.

3 Decreasing the Appropriation for Maintenance Repairs at the State Prison. Amend 1975, 505:1.02, 21, 04 by striking out said paragraph and inserting in place thereof the following:

04 Operation and maintenance plant:

10 Permanent personal services	\$67,698	\$68,690
20 Current expenses	16,270	16,390
21 Fuel and utilities	135,000	135,000
30 Equipment	14,500	1,000
50 Other personal services	2,000	2,000
62 Benefits	6,887	6,986
90 Maintenance repairs F	39,575	
Total	\$281,930	\$230,066
Estimated source of funds for operation and maintenance plant:		
06 Agency income	\$ 1,033	\$ 1,033
General fund	280,897	229,033
Total	\$281,930	230,066

4 Authorization for Preliminary Work for the Summit of Mount Washington. Amend RSA 227-B:6, IV (supp) as inserted by 1969, 427:1 as amended by striking out said paragraph and inserting in place thereof the following:

IV. Supervise the work done on capital improvements authorized by the general court for Mount Washington. The governor and council shall authorize the expenditure of funds for final design and contract plans out of funds appropriated for that purpose when requested by the commission. The governor and council shall authorize the construction of the capital improvements to the Mount Washington summit authorized by the general court in a manner consistent with the 10-year master plan prepared by the commission when said commission can certify it has raised or accounted for \$1,000,000 or more in gifts, grants or donations from sources other than the state.

5 Highway Betterment Appropriation Extended. Amend 1973, 526:1 by striking out said section and inserting in place thereof the following:

526:1 Declaration of Purpose; Appropriation. In order to provide funds for an increased statewide betterment type highway reconstruction program for state highways, the sum of \$3,000,000 is hereby appropriated. Said appropriation shall be for the 1974-75 and 1976-77 bienniums and shall be expended under the direction of the commissioner of public works and highways.

6 Removal of Designated Location for Equipment Pool Warehouse, Amend 1975, 504:1, X. (a) by striking out said subparagraph and inserting in place thereof the following:

- (a) Construction, reconstruction, removal or relocation of department buildings including:

State forest fire equipment pool warehouse	\$60,000	
Total Subparagraph (a)		\$60,000

7 Installation of Fence. Amend 1974, 38:1, VI by striking out said paragraph and inserting in place thereof the following:

VI. New Hampshire Youth Development Center- acquisition of one youth residential center located off the present property but within the Manchester area.		\$125,000*
Spaulding Cottage renova- tion including installa- tion of an exercise yard fence..		\$55,000

*This appropriation shall be reduced by any available funds.

Total Paragraph VI	180,000
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8 Effective Date. This act shall take effect upon its passage.
Amendment adopted.
Ordered to third reading.

SUSPENSION OF RULES

Sen. Rock moved that the rules be so far suspended as to allow the introduction of a bill not previously approved by the rules committee.
Motion adopted by requisite 2/3 vote.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 57, establishing the New Hampshire incentive program combining grants and loans and making an appropriation therefor. Committee on Education.

Sen. Rock moved that the rules be so far suspended as to dispense with the public hearing and the notice of the report and that the bill be placed on second reading at the present time.

Motion adopted.

Sen. ROCK: This is a bill which I feel is extremely important not only to the state as a whole but in particular to the youth of our state interested in higher education. I would like to give a little history on this legislation and how it arrived at the point that it is now. I am sure some of you will remember that in the 1975 session we considered and passed in this body and in the House, legislation providing grants to students for higher education. I must say that at that time for various reasons, I voted against that legislation. I appeared before the Senate Finance Committee and spoke in opposition to it and I voted to sustain the Governor's veto of that legislation. The House did sustain by a very narrow margin, although the margin was not quite so narrow in this body, to override the veto. I have before me the Governor's veto message and I have also before me the records of the minutes of the meetings of the Governor's Commission on Student Aid. Following the veto of that legislation the Governor appointed a Commis-

sion to study the possibilities of providing student aid to the lower class students of our state. I would like to read the charge of that commission. "The commission was charged by the Governor to: (1) investigate and study existing financial assistance programs; (2) make recommendations to the Governor for a post-secondary aid program and (3) file and report with the Governor on or before February 1, 1976." Time constraints did not allow us to report to the Governor within the guidelines set to the charge of the commission. We requested of the Governor an extension of time to provide a report as to our findings. The Governor's commission has met on six different occasions and has had excellent input from academicians and administrators throughout the state. Not only have we had excellent help and advice but we have had expert counsel from many areas that have led us to the legislation that we have placed before you today. The Co-sponsors of the legislation will be Senator Jacobson, Senator Monier, Representatives Dickinson, Lockhart, Richardson, Lessard, Maurice Read and Neil Young. These representatives all served on the Governor's Commission and all were hand selected by the Governor to work on this problem. As Chairman of this Governor's Commission, I can say that we have studied carefully the Governor's veto message and we think we have resolved the issue to the point where we not only have a bill that has been supported wholeheartedly by the colleges and institutions of higher education but which has met the oppositions that we believe the Governor had in his veto message. Now I must tell you of further time constraints that face us. This commission has just recently completed this work and when I say recently, I mean as recently as last Friday. When the Governor's Commission completed its work on Friday, the Governor was out-of-state. I have delivered a two page letter to the Governor as a cover letter to this legislation. It is now on his desk awaiting his return but because of the need for us to approve any Senate Bills and pass them over to the House, it would be impossible for us to wait for the Governor to return to get his explicit approval on the legislation. I repeat again, all of the members of the commission were selected by the Governor. Let me go on with the legislation briefly and tell you what it does. There is available through federal grants \$149,000 to the State of New Hampshire immediately, to aid students who qualify for the need for grants and aids for higher education. This must be met by a state grant of an equal amount. It was the feeling of many members of the commission that we should also require some work study and some help for those students who would qualify for this program to show that they indeed have the willingness to help the state taxpayers who are supporting them by giving their own support to this legislation. We have added in addition to the \$149,000 of a state match to the federal money, a \$100,000 appropriation for loan incentives and administration. We think the administration process has been handled excellently by the commission with the cooperation of the Post Secondary group. First of all, we are not building another lair of bureaucracy; we are not creating a new office and we are not adding new people to handle this matter. It will be handled by the Post Secondary Office and it will be handled by them at a minimum fee. Of the \$100,000 a minimum of \$60,000 and perhaps more, will be used as seed money to provide loans to those students who qualify. As you are well aware, perhaps one of the most difficult things for a student to get is a freshman loan to help finance his educational needs. The banks have been extremely reluctant to lend money to freshman. Their attitude has always been let them get their feet on the ground and we will see them when they get to be upperclassmen. The second thing that has been a problem is that it is probably more lucrative to lend money for an automobile that is going to be paid back in 18 months than it would be for a lending institution to lend money that might not be able to come back for a four year period. In discussing this matter with the lending institutions of the state, we feel that this money prudently invested in a free enterprise method will return 20 to 1 the amount which we are appropriating. So the \$60,000 that goes for seed money for loan programs will generate up to 1.2 million dollars in new loan money. To qualify for this the lending institution must agree to lend in excess of what it has lent in over the past three years and for that they would receive a five percent incentive. Let me give you an example, the bank has lent an average of \$20,000 over the past three years for students for higher education. If it agrees to lend this year \$30,000, the \$10,000 in excess of what they had previously lent would return to them a five percent seed money to sweeten the pot and we know, from our discussion, that this is going to be tremendously effective. I think in our deliberations we found the need for monies for higher education and grants and loans to be excess of what this bill will do. But what we are doing is taking advantage of the \$149,000 of federal money that is available now. We are matching it with state monies for fiscal 1977 and we are adding a loan program that will help students at this time if they make application at this time, to receive some of this

money for the September semester of 1976. As one, we stood before you and voted to sustain the Governor's veto of Senate Bill 2, as one we spoke before the committees in opposition to that bill at that time and I can tell you now, that I wholeheartedly endorse the concept of this legislation. I think timeliness of your allowing it to be introduced today is not only important but critical and crucial. The needs as I have not only seen it in my work in the Senate but in my duties as a trustee of the University of New Hampshire dictates to me that this is emergency legislation in every sense of the word, that we came here to discuss in a special session. I would like to discuss with you briefly a few highlights of the bill. Highlight number one is that a student must demonstrate a work study self-help program or else he would not get the grant money. The self-help work study money must be demonstrated to the post secondary as top money, that is considered first. He says I will take out a loan that I must repay in the amount of \$700, I need \$1,500. The \$700 comes off the \$1,500 and his grant at this point would be only \$800. The minimum grant is \$100, the maximum is \$1,500. It must be spent or used as tuition at a state institution within the borders of the State of New Hampshire. It cannot be administered in anyway that would discriminate with race, creed, color or sex and the requirement that he will help himself is clearly delineated within the context of the bill. I call your attention to page 1, under Statement of Purpose, and I quote "shall recognize the principle that each applicant shall be required to help himself or herself and shall afford each student both the incentives to seek the benefits of a post secondary education and the freedom of choice in regards to program or study at the institution he or she shall attend. Considering the fact that we have kept the administrative costs at a bare minimum; considering the fact that we have worked closely with the lending institutions and have their assurance that this kind of a program will work; considering the fact the majority members of the Senate saw the need for this in the 1975 session, I ask therefore, that the Senate support this.

Sen. LAMONTAGNE: If I remember correctly, the Governor's veto was \$300,000, is that right?

Sen. ROCK: The Governor did veto a bill that had \$300,000 all of which was state funding. I call your attention to the fact that we are appropriating in this \$100,000 for loan money, we are appropriating \$149,000 to match the federal grant, so if none of the loan money was ever paid back we are still talking about only \$250,000 in this bill.

Sen. S. SMITH: In reading over very hastily, it talks about grant. My interpretation of grant is a gift without repayment. Are there grants in this bill or is this totally a loan bill?

Sen. ROCK: It is grants and loans.

Sen. S. SMITH: How do you determine the difference and who gets what. Also, how do you breakdown the dollars between grants and loans?

Sen. ROCK: We felt that to establish in this legislation the kind of detail you are inquiring about would make this bill so cumbersome and so voluminous that it would never be able to pass a Special Session so if you will look in the bill, the Post Secondary Education Commission shall administer the program. We are leaving a great deal of the administration to the Post Secondary Education Commission who will administer the incentive program according to state legislation and accounting procedures. We have to leave to the discretion of this group say if a student is getting outright grant money in a level of income, this is the area in which we don't seem to have a lot of problems, if they have an income level where there is no help needed, federal grants can already be taken care of under programs we have now, these students don't have a problem. The students that have the problems are those that are middle income, lower middle income, who might not qualify for an outright grant but who, with a loan program and a combination of work study loan and a minimal grant, could get into school and could have the opportunity for higher education. The outright grant student probably wouldn't be affected by this although post secondary education would have some leeway in relieving the administration of it, to them to handle that situation. We are talking about the student whose cost of education is running a thousand to twelve hundred dollars over what he can afford. He may have some funding in the family and they can afford to a certain point. He needs a grant and he is willing to take a loan for the difference.

Sen. S. SMITH: On page two, 188-D:12, does he pay the banks?

Sen. ROCK: If the bank had lent \$20,000 a year for the last year three years for students, and they are willing to put in an extra \$10,000 for student loans this year, then out of the \$60,000 which will be left out of the \$100,000, we say to them here is \$500. They are not going to have to handle a great deal extra paper work but it is going to sweeten it for them so that they are going to say yes, now we will consider this. Unless

the parent had an account at the bank and unless the student was a junior or senior, they were not considered by these banks. New Hampshire has the best record in the United States for pay back of loan. We are going to generate with this money twenty times the amount we are putting into it. The \$60,000 from our discussions with the banking institutions, will generate new capital in the amount of over \$1,000,000 for loans for students.

Sen. JACOBSON: This bill does not go as far as I would like to go in terms of funding but it is at least taking the first steps. I have always been a believer that sometimes we have to walk before we can run. For that reason, I would support the legislation and send it over to the House and hopefully, as Senator Rock has said, the Governor's committee has come up with a proposal and implicitly the Governor can then accept the recommendations of the committee. We will then have taken at least one step in the right direction of providing aid to deserving students in higher education who come from our New Hampshire high schools.

Sen. S. SMITH: I would like to rise also in support of this bill and hope that the Senate will act favorably on it.

Sen. Rock moved that the rules be so far suspended on referring this bill to the Committee on Finance.

Motion adopted.

Sen. SAGGIOTES: Is the assistance for loans and grants for residents of the state only?

Sen. ROCK: Yes, it is.

Sen. SAGGIOTES: Are these loans and grants to residents of the state to any school of their choice?

Sen. ROCK: It must be used for post secondary education in the state and I am pleased to add that that would include the vocational-technical colleges.

Ordered to third reading.

Sen. Saggiotes presiding.

TAKEN FROM THE TABLE

Sen. Bossie moved that **SB 26** be taken from the table.

Motion adopted.

Sen. Bossie offered an amendment.

Sen. BOSSIE: There are two minor amendments to this bill. This is the same as the Trowbridge amendment this morning with two additional things in it. Basically, on page 1, it provides that anyone arrested for operating under the influence shall within fifteen days, notify the clerk of the court which is charged, either the district court or the municipal court, that he intends to be tried there or in the alternative, he can elect to be tried by the Superior Court and have his right to trial by jury. Under the present law, an individual charged with a misdemeanor has his right to appeal to the Superior Court any charge that he is found guilty of in the district court. In other words, for a felony in the State of New Hampshire you get one trial but for a misdemeanor in the State of New Hampshire you get two trials. On page 6 under 262-A:69-m, Restoration of Licenses, as you will recall last year during the regular session, we provided the amendment where in such instance an individual is charged with the offense of DWI and refuses to take a blood test or breathalyzer test and is subsequently found not guilty the director of Motor vehicle may have the right to restore his license. It is my understanding, notwithstanding what our action was, no person who has been found innocent have had their license restored. What this will do is if someone is found not guilty they will have their license. If they are found guilty they shouldn't and this is basically what this amendment will do.

Sen. McLAUGHLIN: If a person takes the alternative to go to Superior Court rather than District Court, how long before their trial would be held?

Sen. BOSSIE: It could be anywhere from 6 months to 18 months.

Sen. McLAUGHLIN: Would the person be able to keep his license for this period of time?

Sen. BOSSIE: Certainly, if you are not tried why should you loose anything, you are not found guilty of anything. You are presumed innocent in this state until found guilty.

Sen. FERDINANDO: Do I understand you correctly that what we are doing here is that under existing law he goes to district court and if he is not satisfied he can go to Superior Court. In this amendment we are now saying that you will not have that right, you will have to choose. The question comes to my mind that we are taking a step away from someone. Say he wasn't satisfied with the action of the judge or the decision that

was made and now with this we are saying that it was too bad. They have no further action they can take.

Sen. BOSSIE: If you commit murder you have one trial, if you commit DWI you have two, why should you have two?

Sen. FERDINANDO: All I am saying is this is the way it is now and if we pass this we would be taking a right away from somebody.

Sen. BOSSIE: We would make anyone charged with DWI fall under what you would be if you were charged with a felony. You have one trial, one crack at the apple and if you goof it and are found guilty that's how it goes.

Sen. S. SMITH: I think the intent under the original bill, was to try and get people to take this course in hopes that after having new light and that they would not be repeaters, so there would not be as many trials in the courts under the bill. With your amendment, is it not also true that if they took choice, either the district court or the Superior Court, that they still have the right of appeal to the Supreme Court?

Sen. BOSSIE: Anyone can always appeal to the Supreme Court.

Sen. MONIER: DWI is a misdemeanor. Aren't all misdemeanors tried in the District Court normally?

Sen. BOSSIE: Yes, they all start there but you can appeal them to the Superior Court.

Sen. MONIER: You can appeal any misdemeanor to a Superior Court? Then why is DWI suddenly used different?

Sen. BOSSIE: It is the type of thing I think should be. If you will check the records of Superior Court or appeals from the District Court you will find that 85 percent of them are DWI.

Sen. MONIER: Isn't most of the 85% DWI because if they are convicted in District Court they take that chance to go on and see if they can't get it back. What is the reason 85 percent of them go on?

Sen. BOSSIE: Frankly insurance purposes because they think they are not guilty.

Sen. MONIER: Would the Senate Bill we just passed this morning take care of that insurance problem therefore we shouldn't worry about that?

Sen. BOSSIE: You shouldn't penalize someone for being guilty until they are found guilty. Once they are guilty put them through that course.

Sen. CLAVEAU: You surprise me as a lawyer. You are taking away from the people the right they have now. Wouldn't you agree that if a truck driver or anyone earning a living by driving wouldn't rather go to school and keep their license rather than lose their license and maybe their job?

Sen. BOSSIE: This has nothing to do with that. The amendment proposed by Senator Trowbridge will still be in effect. You can follow that course once you are found guilty. This is before you are found guilty as to who is going to try you. There are some people who prefer a jury, some people would prefer a judge in a district court. It all depends where.

Sen. CLAVEAU: What if a person has one crack at the apple like you say and he has a hanging judge, don't you think he should have a chance at Superior Court?

Sen. BOSSIE: Let me put it this way, that is why you have your election. You are picked up, you go to a municipal court or a district court. You don't have your choice of the judge. It is either a hanging judge or a non-hanging judge. If you have a hanging judge you are going to be found guilty anyway and you can appeal. This way, if you are caught in X court and you know there is one judge and everyone is found guilty, you can make your choice. Obviously your choice would be to be tried by the Superior Court.

Sen. TROWBRIDGE: I think Senator Bossie's amendment is interesting and pretty good, the second part of it especially. The first part of it throws in a issue here and I guess I am protecting the work that we have done. It throws another whole issue into Senate Bill 26 which I think could be argued into the night. For instance, we made a commitment and the amendment to Senate Bill 26, that we were not interfering with the second offense rules. Now you have the situation where the guy goes to school, he is within the probation period, he gets caught for DWI which would be the second time, he obviously elects to go to the Superior Court in order that he can delay for 24 to 36 months any conviction. In this way, we are leaving someone on the road who has been sent to the school, didn't work, has been picked up again and yet because he has elected to go to trial by jury you can't really get to the case for maybe two years. We are making the representation here, we the Finance Committee who came up with the amendment, that we are trying to help the guy the second time. I think throwing this first amendment in now confusing the issue on the original amendment that we proposed this morning. So, I will ask you not to vote on that now and I would also to support Senator Bossie on

the second part of his amendment which I don't think is devisable is here and I would hope that he might, if he looses on the first time around, go to the House and add it in the House because it goes through House hearings next Thursday. I would help to support the second part in the House in order that the paper work doesn't have to be completely rewritten a second time around and so we can have the bill that came out of Finance, at least for a day, in some sort of order and not be garbed up. There are two separate issues here and I must say that I am trying to protect the integrity of something that was fairly well worked out by the Finance Committee, and have it see the light of day before it is changed.

Sen. MONIER: Any misdemeanor goes into District Court and any misdemeanor can be appealed to Superior Court. The fact that 80 percent of them that are appealed to Superior Court are DWI raises the suspicion in my mind that they are trying to find a way to get their license back to be very frank about it. When I am told that it is because of the high insurance rates my answer to that is that it is too bad. If they hadn't been out drinking they probably wouldn't have that problem in the first place. I am dead set against that kind of an amendment.

Sen. BOSSIE: At this time there has been some doubt cast and I would be willing to divide the question and I would ask that that portion on page 6 dealing with Restoration of Licenses be voted on and the other one I would be glad to withdraw it or vote it down. I withdraw my motion.

SB 26, requiring persons convicted of driving while under the influence of intoxicating liquors or controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program.

Sen. Sanborn presiding.

Sen. Trowbridge offered an amendment.

Amendment to **SB 26**

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to a driver alcohol retraining program and relating to the restoration of driving privileges upon a finding of not guilty of driving under the influence of intoxicating liquors or controlled drugs.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Director Required to Restore License. Amend RSA 262-A:69-m (supp) as inserted by 1975, 429:2 by striking out said section and inserting in place thereof the following:

262-A:69-m Restoration of License. Notwithstanding any other provision of law to the contrary, the director of motor vehicles shall reissue a license to a resident, or restore operating privileges to a nonresident, whose license or privilege to operate has been revoked for failure to submit to a test pursuant to the implied consent law prior to the expiration of 90 days when such person is not found guilty of a violation of RSA 262-A:62.

6 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Ordered to third reading.

COMMITTEE REPORT

SB 54, to give the superior court injunctive power over certain motor carrier activities. Ought to Pass with Amendment. Sen. Bradley for the Committee on Judiciary.

Sen. BRADLEY: The original bill was introduced at the request of the Attorney General's office which is responsible for assisting the PUC and the enforcement of the motor carrier law. Under the present motor carrier law, the only teeth they have in the provisions is to bring someone into court for criminal violation. The Attorney General's Office feels that being forced to go through criminal trials and proving their case beyond a reasonable doubt and so on, is a cumbersome method of enforcement. What they are asking for by this bill is to be given another tool for enforcement in the nature of

a civil injunction remedy so that besides having this criminal law to back them up they can go to Superior Court and ask for an injunction to stop someone from violation. That is what the main bill does. Sen. Bossie's amendment relates to the powers of Superior Court but in a different context which is not strictly limited to motor carriers.

Sen. BOSSIE: The amendment of the committee basically allows attachments by shifting the burden to the defendant rather than placing it on the plaintiff in having an attachment placed before judgment. Basically, now what happens, the burden is on the plaintiff in any action to show not only the likelihood that he would prevail in the case but also that the defendant is without assets by which to pay any judgment that could be collected. This shifts the burden as is the case in most other states. The problem that has been presented is that in a number of cases, probably 90 percent, no attachments are allowed because of the present law. In case there is no attachment there is no security lien which gives you an order of preference in the case of bankruptcy. This would allow in an easier fashion, the plaintiff to put an attachment on and also would permit a lis pendens to be filed with the register of deeds or the Secretary of State. All this is a notice that a suit is in progress and puts the buyer on notice.

Sen. LAMONTAGNE: I rise in opposition to the amendment. This amendment is confusing the issue. Before our committee the Public Utilities Commission appeared and at first were in opposition to the bill. An agreement had been made that the Public Utility Commission would get together with the Truckman's Association of New Hampshire and therefore a combined amendment was to be presented to our committee. As of yet, the amendment has not been presented to us and I understand that it hasn't even been drafted. As far as Senator Bossie's amendment is concerned, I have talked with the attorney from the Public Utilities Commission and they are opposed to the amendment that he is proposing. I urge you to vote against the amendment.

Sen. MONIER: Senator Bradley, when Senate Bill 54 came to you and I understand it is in the calendar and I have read it, it says ought to pass with amendment, is the committee aware as to whether there is or is not an amendment. I recognize that Sen. Bossie's amendment is not the amendment we are talking about. In the calendar it says ought to pass with amendment and I assume that is a committee amendment?

Sen. BRADLEY: The vote on this was a little unusual. There was one amendment proposed at the hearing, Sen. Bossie's amendment. There was another amendment which was discussed and there was an agreement made orally at the hearing that the representatives from the trucking industry would meet with the representatives from PUC and come up with an amendment which would replace the original bill. The vote of the committee, as I understand it, was that we were accepting whatever amendment got agreed to and got prepared for the main bill and Senator Bossie's amendment. So, the vote was ought to pass with amendment. The agreed amendment never showed up and I am therefore interpreting the committee vote to mean the bill in the original form was ought to pass with Senator Bossie's amendment. I apologize to the Senate for operating in that fashion but we really didn't feel we had any choice in view of the time constraints.

Sen. MONIER: As I understand now, we are looking at Senate Bill 54 with an ought to pass as amended and the amendment the committee is talking about is Senator Bossie's amendment. If this is true, then I have to ask the Chair if this amendment is germane to the basic bill or not? Because in my opinion it has absolutely nothing to do with the basic bill of which I was a sponsor of.

CHAIR: The chair will state at this time that Rule 21 of the Rules of the Senate states that: "No amendment shall be made upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the Senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference except it be germane. The Chair reading over this amendment does not see that it is germane.

Sen. LAMONTAGNE: Now that the amendment is not germane, I would like to say that there are some changes that need to be changed which came before our committee. There was suppose to be an amendment and it is very embarrassing. I want to apologize to the chairman because this amendment should have been in from the Public Utilities Commission along with the Truckers Association. I am willing to let this bill go through if the members so want to vote and then this correction can be made in the House. It is a minor correction.

Sen. CLAVEAU: I move that this bill be sent to interim study by the Judiciary Committee. This is one of these last minute affairs. There were suppose to be amendments prepared by the Public Utilities Commission and the Truckers Association and

nothing became of it. I think this can wait another few months and come up in the regular session.

Sen. LAMONTAGNE: I rise in opposition to the motion. I feel that there is some good in this bill and I would hate to see it go to a study committee. There is a problem especially with the garbage collectors and this was the purpose of it. It not only includes the garbage collectors, it includes all truckers so that the PUC could enforce the law easier. This would put more teeth into the law for the PUC enforcement.

Sen. MONIER: I rise in opposition to the motion and I do so with some trepidation because I admit that I put this bill in for the Attorney General. The bill is suppose to correct what is now a delay to the PUC in their capabilities of injunctive powers against carriers who exceed the jurisdiction. My understanding is that this was originally directed primarily at those that were collecting rubbish and trash, etc., particularly in the southern part of the state. The large motor carriers were infringing into areas where they were not allowed jurisdiction under the PUC. The procedures for bringing injunctive powers to them by the PUC to stop them from this were so light that they were not paying any attention to it and by the time they got the injunction against them or a means to stop them, the little carrier handling the local rubbish and trash was out of business. I would like to ask if the Senate would indulge in this matter enough to allow the bill to be passed since this is our last day for moving them into the House and the amendments, and the objection of the motor carriers of whom I respect but have very little contact myself, can present any amendments at that time. I think that it would be bad news to us to take a bill that the Attorney General wants of this nature within the basic structure of what I have stated, which may be impugning upon the small carriers in some area, particularly in rubbish hauling and trash, when you will have a chance to amend it in the House at the House hearing. I think this was very badly confused by the way it was produced in the calendar today. I was waiting to see this amendment and we find out later that amendment was not made and that Senator Bossie's amendment was something else and at that point I was unable to get any advice and I would ask the Senate to indulge me in this and defeat the motion of interim study and let the bill pass. Let it go into the House and have the proper amendments added so that the bill is properly treated.

Sen. LAMONTAGNE: What happened, didn't PUC get together with the Truckers Association?

Sen. CLAVEAU: At the hearing it was stated that the PUC and Truckers Association would get together and come up with an amendment. They said they would and apparently they weren't able to do so at this time.

Sen. LAMONTAGNE: Senator, you did get in touch with the truck owners so that they would get together with PUC to draft this amendment?

Sen. CLAVEAU: Yes I did.

Sen. CLAVEAU: Sen. Monier are you aware that there is sufficient law on the books now to prosecute any carrier who is operating illegally?

Sen. MONIER: My only answer to that is that the Attorney General has informed me that the law that is on the books is doing that jurisdiction improperly and that is why this needs to be corrected. I can't answer because I am not a motor carrier and I do not know. I just know what the bill says. It is very simple and if an amendment is necessary to it then I only ask that we do it in the proper fashion. Get it into the House and put it into their Transportation Committee and put the amendment on it. This is directed at the small trash collectors who are being infringed upon by large carriers in the sense that the powers that PUC now have are so delayed that they have already put the man out of business before they can be handled.

Sen. CLAVEAU: Are you aware of why the larger carriers are opposed to this? It doesn't separate rubbish from general freight. This is one of the reasons why they are against it.

Sen. MONIER: I would agree with you Senator Claveau. My answer is why can't that amendment be made in the House rather than killing the bill.

Sen. CLAVEAU: In testimony there were two expert witnesses from the transportation industry who opposed the bill. This is why I am against sending it to the House. If an amendment was to be proposed then the bill should go to an interim study committee.

Sen. MONIER: In that particular case, my only response is that it shouldn't have come out ought to pass with amendment.

CHAIR: At this time the Chair would like to say welcome back Roger Smith and would hope that his health has returned to normal.

Sen. McLaughlin moved that **SB 54** be laid on the table.
Motion adopted.

SUSPENSION OF RULES

Sen. Ferdinando moved that the rules be so far suspended as to allow the introduction of a bill not previously approved by the Rules Committee.
Motion adopted, by requisite 2/3 vote.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 58, to provide for the licensing of plumbers. Committee on Executive Departments, Municipal and County Government.

Sen. Monier moved that the rules be so far suspended as to dispense with a public hearing and allow the introduction of a committee report not previously advertised in the journal.

Motion adopted.

Sen. Monier moved that **SB 58** be sent to interim study by the Committee on Executive Departments, Municipal and County Government.

Motion adopted.

SUSPENSION OF RULES

Sen. Bradley moved that the rules be so far suspended as to allow the introduction of a bill not previously approved by the Rules Committee.
Motion adopted by requisite 2/3 vote.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 59, relative to the authority of the state board of education to remove or to authorize the employment of superintendents, assistant superintendents, teacher consultants and business administrators. Committee on Education.

Sen. Bradley moved that the rules be so far suspended as to dispense with a public hearing and allow the introduction of a committee report not previously advertised in the journal.

Motion adopted.

Sen. BRADLEY: This bill involves something that only came to my attention late last week and actually the source of it is my wife. She was recently elected to the local school board. She came home with copies of correspondence between the State Board of Education and the local school districts. The basic thrust of this correspondence, as I read it, was that the State Board of Education has very recently indicated to the local school districts and particularly the supervisory union board, that it wishes to interview all applicants for assistant superintendent jobs, superintendent jobs, business administrators and, when asked for clarification, the clarification as I read it between the lines, is that the State Board of Education is asserting a right that it may well have always had and that is the right to veto the hiring of a particular superintendent but no one ever really thought that the State Board should use it and no one ever suggested that they would use it. I am looking onto this a little further. I discovered that the law seems to say that the State Board of Education has the authority to tell a local school district or a supervisory union that it can't hire the person of its choice, even though he may be fully qualified, and beyond that, that the State Board has the power to remove that superintendent or assistant superintendent even though the local supervisory union board may want that superintendent. This law was put on the books back at the time when the state was paying the major share of the superintendent's salary. It was part of the move to give the state more control over local school districts. It may have had a purpose then but that was a good many years ago. The state basically has never increased its share of superintendents' salaries and presently the local districts are paying 90 percent or more of their superintendents' salaries. I think it is highly inappropriate for the State Board to

get involved in this kind of local matter. It seems to me that if there is any area that ought to come under local control, it is the hiring of local school officials or the firing of local school officials. I have no qualms whatsoever with the State Board laying down minimum standards and my bill does not do anything about that. If the State Board wants to say that a superintendent has to have such a degree and such an amount of experience or whatnot that is fine. I just think it is wrong for the State Board to get involved in the hiring process or in the firing process. I am asking for a waiver of the rules to allow this bill to be introduced which will nip this matter in the bud and make it clear that the State Board has no jurisdiction in this matter at least until they are paying over half of the salary of these people. This is not likely to happen right away but I don't close the door on it. The analysis is reasonable accurate and what the bill is doing is adding to the present law that until the state pays at least one-half, that the State Board is without this power to refuse the hiring of a superintendent or to remove a superintendent without the consent of the local board.

Sen. LAMONTAGNE: Since when doesn't the state pay part of the salary of a superintendent?

sen. BRADLEY: The state pays a part of the salary of the superintendent. I think it is \$2,000 or maybe \$2,200. I understand the average superintendent's salary is something like \$25,000, so, it is less than ten percent.

Sen. LAMONTAGNE: I always thought it was half.

Sen. ROCK: Am I correct in that at the present time to assume the position of superintendent of schools an individual must be certified by the Board of Education; have certain qualifications and actually possess that certificate that shows he has completed the necessary studies and courses and is indeed approved under the present regulations of the Board of Education?

Sen. BRADLEY: I think that is right. I have to qualm about the State Board saying these are our requirements for certification to become a superintendent and if the man can't be close he can't be considered. Once you crossed that minimum threshold and the local board is interviewing candidates who have met that certification then it is their decision as to who they hire. If the State Board doesn't like one of those three as far as I am concerned it isn't any of their business.

Sen. ROCK: I guess where I am having difficulty is that they have already had a shot at this man by giving him a certificate such as in my area there are several people who are certified to be superintendents. They don't hold the post but the State Board of Education has granted them that right or should they be chosen by some school district by virtue of their completing certain courses and doing certain things that the board has said are necessary. In essence, they already giving their approval to the person by saying he is qualified. Is this not a fact?

Sen. BRADLEY: I think this is exactly right. They have given all the approval that they ought to be able to give to the situation.

Sen. ROCK: Then do I understand what you are saying is that that is enough?

Sen. BRADLEY: That is enough. Then the question of which one of those three that already have their certification or how many the board may choose to interview, it is up to them. The State Board has no business saying that they want to also come in and interview the candidates with the very real implication of saying that if we don't like one of them we are going to tell you you can't have them.

Sen. S. SMITH: I rise in support of the bill and would like to echo what Senator Bradley has said, but in addition to that, I think if the State Board takes upon itself the full implications of the present law, what is going to happen is exactly what Senator Bradley has said. They are going to make the decision as to who is going to be employed where and if they made that decision then the State department and State Board are going to be the boss of the superintendent and not the local school board. Until the State Department and the State itself provide funds adequately for the education of this state, then I don't think the State Board should have that power and authority, because the school board is going to have to find in its district how much it is going to cost, how much it will be able to spend and if it is in contradiction to what the State Board and what the superintendent want, it is going to breed a great deal of difficult problems within the local school districts.

Sen. LAMONTAGNE: I think we ought to be very cautious of the matter that is before us now. I say this because I personally feel that under the system that is now operating, under the control of the State Board of Education, if you put this matter under local school boards to make decisions of the superintendent and I am afraid that if it was in their hands, you would face a problem of possibly getting into local politics. If you get local politics into education it will be bad. I am worried as to whether or not a

school board wouldn't turn around and fire a superintendent and then hire another one. How many times can this be done if it is not under the State Board of Education control? I would be in favor of voting for the proposed suspension only if this could be referred to a study committee and study the matters that are very important to education. You should stop and think and I think it is important to make sure that local politics do not get into the school boards.

Sen. S. SMITH: What we have heard today is that the State Board is going to determine who the individual superintendent is going to be. I understand that you don't believe that we ought to have local politics in our education system. Do you think that because of this policy we should have state politics in our local education system?

Sen. LAMONTAGNE: I think that under state politics certainly, for the smaller towns, it could be better controlled than in the manner it is now in. This is a matter I feel should be studied. Remember, that we have different towns who are in a different district, school district. This is where it could create a large problem especially in a district where more towns are represented. To vote on this today, I will vote against it.

Sen. Bradley moved that SB 59 be acted upon at the present time.

Sen. BRADLEY: The only reason I do this is because I do not think this is a matter that can wait until the regular session. I am perfectly willing to let this matter have all the hearings that are possible over on the House side and I will be glad to cooperate and assist in having this thoroughly debated. I think the matter is too important to let it go sliding off without acting on this the last day we have to act.

Sen. LAMONTAGNE: Is it your intention today to pass this bill to the House?

Sen. BRADLEY: Yes.

Sen. LAMONTAGNE: I don't feel that I want to repeat the speech that I just made about this. You heard what I said but I am definitely in opposition to sending this bill to the House.

Sen. BOSSIE: Parliamentary inquiry—it is my understanding that the Speaker of the House and the President of the Senate have made a tentative agreement with respect to when Senate Bills shall be out. Is the Senate bound by this or could we have hearings by the Education Committee on this bill?

CHAIR: It has been agreed by the President of the Senate and the Speaker of the House that this is the last day that bills may leave the Senate and tomorrow is the last day that a bill may leave the House, i.e., Senate Bills leaving the Senate and tomorrow is the last day that House Bills may leave the House.

Sen. ROCK: I would support the efforts of the Senator from the fifth district for two reasons. First of all, the Senator has demonstrated clearly to this body that this matter has come to his attention at a very recent date and it is not a matter which has been kicking around in the committee rooms of this Senate for four months while we have been in this one day Special Session. Further, if there is a problem that the Senator from the first district sees with the measure then I would hope that he would bring that problem to the attention of the House as they receive this message from the Senate, should we decide to pass it. I would concur that there does seem to be merit to this. It is my understanding that the Board of Education already has some hold on who would be certified to be a superintendent and that seems to be sufficient input from that source. If this problem does exist wherein certain of our school districts could be mandated as to whom they should select, it would be establishing dangerous precedence. I would urge the adoption of the motion of the Senator from the fifth district that we approve this legislation today.

Sen. PRESTON: I would like to reiterate the thoughts by Senator Rock. I am reluctant to act on this so quickly but I feel as though I have the opportunity to call school board members and superintendents to appear before the House committee and I will vote on that basis and would probably oppose it if there were any objections from the local people.

Sen. BROWN: Senator Bradley, what prompted you to sponsor this bill? You did state that you wife was on the school board and has received many communications in relation to it. Is there a specific superintendent giving someone some problems somewhere? Is it something of this nature?

Sen. BRADLEY: As I understand it, what happened was she came home with a sheets of paper from the school board which isn't unusual. They had her steamed up and had the board steamed up. They were a series of exchanges between one or two or three different local boards and the State Board. The first one was some sort of directive or communication from the State Board saying, henceforth we want to interview your superintendent candidates pursuant to our powers under such and such. Someone then wrote back and said you have never done that in the past and we would

like a clarification of what this is all about, are you trying to say you have veto power. As I read it, the very clear implication to me is that the State Board feels this is an authority they have and since they have the authority they feel the duty to involve themselves in it. The law is there on the books and no one ever thought it was something that had to be used in that way. I am not saying the State Board is essentially interpreting the law wrong, they may be well in interpreting it right. I just say the law was wrong and that they should not have that authority and duty to involve themselves in it. Beyond that, I started calling people around the state that I knew were involved in education and confirmed that, to my mind, there indeed is this issue and controversy and that there is a great feeling among local supervisory unions that they want this kind of legislation. In doing that, it came to my attention that there was apparently, I really don't have the details at all on this, in the case of one superintendent, the rumor was that the State Board or someone on behalf of the State Board had suggested that there might be removal proceedings initiated at the State Board level. I don't know what there is to that rumor but again I look at the statute and there indeed is a clear power of the State Board to remove the local superintendent whether or not the local district wants it done. I say that it is wrong. I feel badly that we act on this without a hearing but I guess I would rather do that with the knowledge that the hearing can take place over there. If I have this situation wrong I will be the first one to go over to the House and say I went off half cocked in the Senate. I don't think I am.

Sen. MONIER: This situation has been in-being in this state for how long?

Sen. BRADLEY: The statute may be like fifty years old. The communication from the State Board, however, is quite recent. The material that has been circulated among the school boards is like last week. My local school board saw it on Thursday or Friday.

Sen. MONIER: Then, this is something that this particular State Board of Education has, in a sense, precipitated through a memorandum or through a rule or through something else?

Sen. BRADLEY: That is right. That is my understanding of it.

Sen. MONIER: Such had not existed under previous State Boards?

Sen. BRADLEY: Yes, I think this is one of those things that if anyone ever looked at the law about the State Board's power over local superintendents, they never really figured there was something that was going to be used. It was a power which was in limbo. However, this State Board apparently looked at it and said look, we have authority here to hire and fire superintendents. If we have that authority we should be involved in the process. What they are doing may well be correct under the law. I am not trying to say that the State Board is doing something which the law says they can't do. This is my reason for saying lets change that law right now and avoid any misunderstandings about who has the responsibility for hiring and firing local superintendents.

Sen. MONIER: Is then your concern with the law or with the State Board of Education interpreting and utilizing that law?

Sen. BRADLEY: My concern is with the law.

Sen. MONIER: But, you had no previous concern with this because of State Board that they had before didn't bother to use it?

Sen. BRADLEY: That is about the size of it, but I don't think that anyone ever addressed themselves to the law and realized what the law might mean. I know I didn't and I don't think that one in a hundred school board members ever thought that the State Board was going to come around and tell them who they could hire and when they were going to be fired.

Sen. BERGERON: I rise in opposition to the pending motion for two main reasons. I wholeheartedly concur with my colleague from the first district. This was shoved at us with no prior knowledge. It is not something that is of an emergency nature and I have some real reservations on two counts. I am not going to now or ever abrogate my responsibility and pass it onto the House at their whims any more than they would do a bill of theirs to us. I don't think I could justifiably vote on that basis. The second thing that concerns me is that in some of these smaller communities that have supervisory unions with a combination of communities, I wonder exactly what effect a statute of this nature could have. Therefore, because of the numerous unanswered questions I am going to vote against the pending motion.

Motion adopted.

Division vote: Yeas 17, Nays 4

Sen. Lamontagne is recorded as being opposed.

Sen. Lamontagne moved that **SB 59** be referred to interim study by the Joint House and Senate Education Committees. Motion lost.

Ordered to third reading.

TAKEN FROM THE TABLE

Sen. McLaughlin moved that **SB 54** be taken from the table.
Motion adopted.

Sen. Monier presiding

CHAIR: The motion before the Senate is to refer Senate Bill 54 to interim study.

Sen. LAMONTAGNE: I would like to point out again that this bill should pass and therefore urge the Senate to vote against the present motion to send it to interim study.

Sen. CLAVEAU: I withdraw my motion on sending Senate Bill 54 to interim study.

CHAIR: This bill is on second reading and open to further amendment.

SB 54, to give the superior court injunctive power over certain motor carrier activities. Ought to Pass.

Adopted. Ordered to third reading.

Sen. Downing moved that **SB 36** be taken from the table.

Motion adopted.

SB 36, relative to selling sporting events lists by the sweepstakes commission and making an appropriation therefor. Ought to Pass with Amendment.

CHAIR: The question is on the amendment as offered by the committee.

Sen. DOWNING: I rise in opposition to the motion pending and I would urge my colleagues to defeat the amendment and at which time I will offer another amendment to the Senate which will specifically put the funding into the general fund rather than the education funding.

Sen. LAMONTAGNE: As much as I am a great believer in certain funds that have been supporting the State of New Hampshire for many years I am going to be against Senate Bill 36. The people who have been behind the sports have appeared before our committee in opposition.

Amendment lost.

Sen. DOWNING: I offer the amendment which has been distributed to members of the Senate. The committee's intent was to have the funds realized from betting card sales to go into the general fund. The distinguished Senator from the eleventh district pointed out to Senator Fennelly when he was giving the report that there was a problem and it was going into another fund. What the present amendment will do will make sure that the funds do in fact go into the general fund. I urge you support the amendment.

Sen. S. SMITH: Under this bill as I understand it, it is illegal to be on any game that takes place inside New Hampshire. Is that correct?

Sen. DOWNING: That is correct.

Sen. S. SMITH: If either the State of Massachusetts or the State of Vermont were to pass a similar piece of legislation, would it not then be possible that those two states or either one of them would be betting on New Hampshire games either at college or high school level?

Sen. DOWNING: Yes, it is very possible.

Sen. S. SMITH: Doesn't this seem to bring the whole concept of nonprofessional sports at both the college and high school level into a danger of being manipulated by people who want to make big profits in the betting?

Sen. DOWNING: No, I don't think there is any danger at all.

Sen. FERDINANDO: I support this bill. I know that in Manchester and surrounding areas betting cards are very popular. Everyone seems to have a sport betting card. I think we can generate some money because it is popular.

Sen. TROWBRIDGE: I support the amendment. I will not support the bill but the amendment at least puts the money in the general fund.

Amendment to SB 36

Amend RSA 284:21-h, VI as inserted by section 1 of the bill by striking out subparagraph (c) and relettering subparagraphs (d) through (h) to read as (c) , (d) , (e) , (f) and (g) respectively.

Amend RSA 284:21-j, II as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

II. The state treasurer shall credit all moneys received from the sweepstakes commission for sales of sporting event lists, and interest received on such moneys, to a special fund from which he shall pay all expenses of the commission incident to the administration of RSA 284:21-h, VI. The balance of said special fund shall be paid into the general fund.

Amend the bill by striking out sections 3 and 4 and renumbering sections 5 through 10 to read as

3 , 4 , 5 , 6 , 7 , and 8 respectively.

Amend footnote ** of section 7 of the bill as renumbered by striking out same and inserting in place thereof the following:

**Upon consultation with the fiscal committee of the general court first and then with approval of governor and council, the sweepstakes commission may increase its appropriations for operational expenses.

Amendment adopted.

Sen. TROWBRIDGE: At this time, the issue is now on third reading on betting cards and I know everyone has made up their minds and I am going on record that I am opposing Senate Bill 36 for several reasons. One is that we established betting a long time ago on horse racing. Someone asked isn't there a difference between horse racing or dog racing and betting cards. You bet your life there is a difference. In the horse racing and dog racing situations those events occur within the boundaries of New Hampshire, they are under our control; the stewards and the judges are under our control, at least presumably, and the whole concept is something that State of New Hampshire can control. Here what you are going to do is bet in New Hampshire on events that will take place all over the country. You will have no control whatsoever. You will have no control over the basketball tournaments on any of the other cards that come before you. There could be great manipulations within another jurisdiction over which we have no control that could determine the winners of the sweepstakes betting card bill in New Hampshire. Only one other jurisdiction I know has gone down this road as far as you can go and that is Great Britain. In Great Britain there is enormous sports card betting. There is enormous lotteries, the Irish sweepstakes, there is just about everything going on in Britain. I would like to point out that perhaps Great Britain over the last few years has shown a decline in what you might call productivity, the work ethic, a whole bunch of things have shown up in Great Britain that are undermining the habits of that society. There are numerous white papers and reports to parliament saying that one of the problems in Great Britain is that everyone is sitting around hoping to win the lottery or the sports card bet. Someone gets \$783,000 for a two schilling bet and there is a definite undermining of society when you allow betting to go as far as we are going. Finally I think that, maybe its the all American boy, sports are sports and I think that the outcome was suppose to be good fun to watch and not something where you bring up your kids and say what are the odds and what is the payoff. If that isn't a way to show a diminution of social values I just don't know what it is. I think that anyone who says we need the money from sports card betting has really got to be desperate. I do not think we should vote for it nor do I intend to.

Sen. ROCK: Am I correct in my recollection that within the past five years there have been both nonprofessional and professional athletes reprimanded or suspended for so-called shaving points and activities which could affect the final outcome and scores of certain games?

Sen. TROWBRIDGE: You certainly are and you should note and I guess everybody knows it, that the commissioners of professional sports have already opposed this bill because they know perfectly well at this time that the temptation in professional sports where large sums of money is very visable that they have had to reprimand people already and just think of what would happen if a lot more money was riding on the card. In amateur sport it is clear and you will remember in the 50's there were the basketball scandals in New York City that were widespread where everyone was betting on it. They had to clamp down. The clamped down on the betting laws not on the players. That is how they eliminated it.

Sen. LAMONTAGNE: The main reason why I am in opposition to this bill is because when you get into national sports I don't see where there would be any control by the State of New Hampshire, like the control when sweepstakes was adopted. I happened to be one of the leaders in the Senate in passing the sweepstakes along with

one of our Senators who was never recognized for lots and lots of work that had been done during the nights in working on the amendments with me and that was Senator Greene. The Sweepstakes is under the control of the State of New Hampshire but I personally feel that if you get into this type of gambling that we might possibly not have any control of the national sports. This has been proven to us before our committee on Ways and Means. Many of these sports people who came in before the hearing pointed out to us where it could hurt New Hampshire and therefore it made me believe that they are right. If there was a it for one reason because I don't see where New Hampshire could control it under the laws of New Hampshire.

Sen. ROCK: Senator, you say you are going to vote against this legislation and you pointed out quite clearly and accurately that you were a leader in the implementation of sweepstakes. My question is, do you see any problem if as this bill says, it is going to put it under the direction of the sweepstakes, that we might somewhere down the path have the numbers boys focusing their attention on our sweepstakes and thus having outside influence on what has been a well-run, well-regulated and exemplary program follow prey to outside less worthy interest?

Sen. LAMONTAGNE: Yes I see a problem and I personally feel that it is going to hurt the New Hampshire Sweepstakes. I am really worried about it.

Sen. SANBORN: Senator, a goodly portion of our income in this state, I think around five to six million dollars, now comes from horse racing, either the harness racing or the thoroughbred. Do you think that everything is on the up and up on some of our horse racing today?

Sen. LAMONTAGNE: I don't know because I don't go to the tracks to often but I assume the commissioners that have been appointed by the different governors have worked out well.

Sen. SANBORN: Would you believe that we have had indication that all is not great at the horse tracks?

Sen. LAMONTAGNE: I am not aware of this at all.

Sen. SANBORN: Would you further believe that even as far as dog racing which presents about \$9,000,000 to the state, that, in effect, those races can be fixed?

Sen. LAMONTAGNE: There isn't anything that can't be fixed but at least it is under the control of the laws of this state and therefore we could do something. If we went to national sports how could we take a New Hampshire law and be able to enforce a New Hampshire law into another state.

Sen. SANBORN: Then Senator you are indicating to me that there is going to be enough money in the betting cards of the State of New Hampshire so that professional betters can put enough money in to payoff twelve different sets of teams so that they can buy out that card? Are you telling me that there is enough money in professional gambling to do such a thing?

Sen. LAMONTAGNE: I am not saying that there is that much money. The only thing that I am telling you is that it would not be controlled by any of the laws in New Hampshire. At the same time, this could affect the dogs, it could affect the horses and it certainly is going to affect the sweepstakes.

Sen. SANBORN: In your last statement, you are telling me that there is no other betting in the State of New Hampshire on sporting cards, number games, etc. right now?

Sen. LAMONTAGNE: Senator, there is no question. There is all kinds of betting. There is card betting, all kinds of betting. Everyone does some kind of betting today. I would like to repeat again, you cannot enact a New Hampshire law to control in another state and this is why I say you have no control like you have with the sweepstakes. The sweepstakes is under a state law and is well protected and policed by New Hampshire laws.

Sen. SANBORN: In other words, you are telling me that there are millions of dollars going out of the State of New Hampshire in betting cards, numbers games, etc. today and you say let it go out. The state shouldn't be interested at all in it.

Sen. TROWBRIDGE: Sen. Sanborn, have you ever considered that the action here in betting cards may not be people fixing games in order to fix all twelve on the card. The fact of the matter is that the professional bettor, when you have a pool of betting cards legally available now in New Hampshire, will be buying up cards, fixing one event on the card in order to cut down on the people who are going to buy and win on the card so that they can go against the pool. There is a two-way manipulation possible on this, one is fixing the game and the other one is fixing the game and playing the pool. Have you ever considered that?

Sen. SANBORN: As I understand the pools, to get top payoff which is the only way

the so-called professional is going to really make his money back, he has got to pick more than one game because there is going to be at least twelve games on that card.

Sen. TROWBRIDGE: Even if he doesn't want to necessarily make a bundle on each card but buys lots of cards and fixes lots of cards and therefore makes a good deal of play, that is possible isn't it?

Sen. SANBORN: I cannot see how he could fix just one game on lots of cards and still get the money, sufficient funds out of the pool to make enough to pay back his investment.

Sen. TROWBRIDGE: Is it now he who selects who is going to win? He makes his own choices on the card, does he not? If, for some reason he happens to know that a certain event is going to happen and he knows it is going to happen enough so that he can invest quite a bit of money in getting a lot of cards that accumulatively are going to say that is going to happen, isn't that a way to make money?

Sen. SANBORN: I would assume and I would assume also that he has a chance to do that right now.

Sen. FERDINANDO: Is there anything in this bill that would stop all of these things from happening that are not happening today?

Sen. TROWBRIDGE: Say somebody works at the New Hampshire Ball Baring Factory in Peterborough. Someone comes around with a betting card which is exactly what they are doing today, lets say it is a football betting card and it will have certain events on it. He doesn't know what the pool is. All he is told is that if you get them all right you will get \$121.00. He has no idea what the pool is and he has no idea that someone is going to win the whole pool. Now if the State of New Hampshire makes it available to everyone and they know exactly what the pool is, what the odds are, who is playing what, it is practically a pari-mutuel and the payoffs are much bigger. Here is a different situation where the State of New Hampshire has done what organized crime could never do. At that point there is enough money riding and enough people focusing on the same games because there are all the same games on the card, the temptation then to fix the game is really great because otherwise it is scattered all over. This is the difference.

Sen. FERDINANDO: The feeling I have is that it is going on now why not let it go and let the state generate some revenue out of it and lets fund some programs.

Sen. TROWBRIDGE: Right now the guys in Louisiana don't know the guys at the ball baring plant are betting on them. They have no way of knowing. It is all so scattered that no one knows what is going on. All of a sudden you have provided a focus. The guys on the cards know that they are being bet on and that anyone in the United States can buy a card on those games. If you trip those cards one way or the other there is a lot of money riding on it. This is where I am concerned for the sport. It is wrong for the State of New Hampshire to ruin professional sports.

Sen. SAGGIOTES: Sen. Bossie, as I understand it, listening to the testimony and the comments of Senator Trowbridge, is it true that the payoffs are going to be made on a pool or is it going to be a fixed amount like the payoffs are now on the regular betting cards?

Sen. BOSSIE: Under this bill it would be to have a pool. It would be just like a race at a race track. All of the money goes in and 60 percent of the money is paid out.

Sen. BRADLEY: I have never been one for quoting the bible but there is one quote that seems to be worthy of paraphrase here. "What does it profit a state if it makes all the money in the world and at the same time loses its soul." I think Senator Trowbridge touched on this very eloquently. It is a hard thing to demonstrate concretely. It is part sentiment and part emotion. I don't think we can keep going down this road of authorizing and sanctioning more and more gambling without risking the loss of our soul as a state. From outside you can look at what this is going to do to sports and I think it is wrong, even though we are leaving our own teams unaffected by it, what right do we have to impose something on colleges outside the state that we wouldn't impose on our own colleges. I have three boys and the state. If I have a boy playing at the University of Massachusetts I am going to feel just as badly if he is approached by someone trying to fix a game as I would if he was going to the University of New Hampshire. It is impossible for me to make a distinction along the lines of whether we are authorizing this for only out-of-state colleges. If it is wrong for sports in New Hampshire, it is wrong for sports everywhere. I try very hard to understand the reasoning of Senator Blaisdell who says he hates this bill but he feels he has to vote for it because we need the money. I suppose in taking the opposite point of view the first thing someone in the news media will do is say I oppose it because I want to have a broad base tax instead. That is a separate issue. If I have to choose between living in our

present state of lack of funds and living with this kind of fund, I will choose the former and I don't care if we ever have a broad base tax in this state.

Sen. BLAISDELL: The only point that I am trying to make is that when I look into the future of the sin taxes of the State of New Hampshire I don't see a very bright future. What I am trying to come up with is some answers. How can we face people at the state hospital, the Laconia state school and everybody else. Senator Steve Smith gave me quite a lecture this noon along with Senator Trowbridge and I agree with what they said. I still don't know where we are going to get the money for the human needs of the people of the state. I officiate in sports and have worked in them for 25 years and I was honest and never made a wrong call in my life, in my heart and in my own mind.

Sen. BRADLEY: What do we say to the people we ought to be spending money on and we are not, I don't have any answers. What I am going to say is that I am going to keep looking for something better than betting cards.

Sen. S. SMITH: In answer to what Senator Blaisdell said, I have been here for sixteen years one way or the other, probably too long, and what I have seen every time a bill comes in on gambling is that it is going to solve our problem for this place or that place, it doesn't resolve it. We are still living with the same problem we had sixteen years ago. When you say that this bill is going to be the panacea and resolve our problems it is bunk.

Sen. BOSSIE: I would like to read for you an editorial delivered last year by Bob Lobelle of WGIR Radio Station in Manchester. "I am going to come out in this commentary favoring the passage of the betting card bill. It is futile and a waste of time to review the pros and cons of such a bill or to review the purely subjective and speculative statements relating to organized crime and the betting habits of the American public. None of those arguments are valid. They are all based on speculation, pure uneducated speculation lacking in foundation and fact. I don't suspect God will punish us for passing this bill but for the same reasons I don't pursue the other arguments. I won't pursue that one. My position is based on logic. A scary word in political circles. The issue is raising money for the state. We don't want any new taxes nor are we about to vote any in therefore how do we raise money for the state without any new taxes. We either ask for contributions from some nonprofit minded citizens or we get it from betting, wagering, yes heaven forbid gambling—oh, oh, I said a dirty word. Keep two things in mind, professional sports is not a sacred cow for freedom loving states to worship. Professional sports take advantage of every tax loophole, every gimmick, every public relations device and every sports show on radio and television to lure, coax and twist that dollar out of your pocket. Professional sports is anything but a sacred cow in fact, in bovine jargon it is closer to anthrax. Lets start using pro sports to feather our nest for a change. Secondly, we owe professional sports nothing. We are making a sad mistake if we think for one minute that by defeating this bill we are saving all of America from the corrupt influence of evil. By passing this bill we do not jeopardize our viewing of Sunday football, basketball or hockey or by passing this bill we might well be insuring a little better education for our children, a little better care for our mentally ill, little better rehabilitation program for our handicapped children and adults, a little better highway safety program, a little better drug prevention and rehabilitation program and in total a little better way of life in a state already accustomed to having the good life without having to really dig down and pay for it. We owe it to ourselves not to professional sports stars that might visit our boundaries. We owe it to ourselves to pass this betting card bill and to add one further point that I did not make earlier, anyone who votes against this betting card bill because he or she feels it will bring in the undesirable world of organized crime is sadly caught up in some not to logical thinking. By voting against legalization of betting cards that legislator is actually casting a vote for the maintenance of illegal operations providing much more of a breeding ground for organized crime."

Sen. SANBORN: Senator, as sponsor of the bill, can you tell me where in the bill it states that it is the panacea, the ultimate and so forth in income into the state?

Sen. BOSSIE: It doesn't.

Sen. BROWN: I am not a gambler and I have never seen a betting card. From the debate here on the floor this morning and this afternoon, I am led to believe that these betting cards a affluent throughout the state and apparently there are millions of dollars involved and apparently only the racketeers are gaining from this. Which is the lesser of the evils? Which would be more helpful to the sport, if it exists anyway—the state having it or the racketeers having it under the present situation. I am torn and I don't know which way to go.

Sen. TROWBRIDGE: The guy that has the betting card is no more in the mafia than

you or I are. He is a local guy who goes to his local bookie. This thing goes down the chain and where it ends nobody knows because it is all illegal. Now you can't prove to me that that is a bad influence at the New Hampshire Ball Baring factory if in fact there are cards there. At that point they are dealing with a local guy and they get a payoff and I don't see that as being a whole bunch of hoods coming in and giving anyone the muscle. Because it is not known and organized and publicized no one knows what the betting cards are, what games they are on, therefore sports go along pretty much even steven because there is no tipping of influence because it isn't known. The moral decision is way in favor of not have betting cards sponsored by the State Of New Hampshire, where we would be taking the place of the mafia if there is a mafia. We then bring it up and say now it is desirable for all of you to go and bet on sports which is going to influence sports for sure. It's desirable and its your duty to do it because you have got to raise money for the handicapped kids. That is really the tortured logic that is going through this.

Sen. BROWN: This morning you stated that it was illegal for betting cards and the legislature made laws against it and so forth but it still exists. Is it because they can't stop it or they don't want to? Why does it continue at such a pace as I am lead to believe it does?

Sen. BRADLEY: A significant number of people like to gamble. Probably a greater number than you are ever going to discourage from doing it. You can also say that about most types of crime and most types of immoral activity. To say that there is some unlawful activity being carried on out there is a long way from saying lets legalize it. I don't feel the presence of betting cards that much. I've seen them around. They come and go and I don't think it is affecting the moral fiber of the state at the present time. I really feel that if we go all out and sanction this thing and promote it, I can see a bill next year to increase and advertising budget of the Sweepstakes Commission so they can advertise these things more like we are now advertising liquor and then I do feel it a threat to the moral fiber of this state.

Sen. BROWN: We had Senate Bill 26 in relation to alcohol and there is a concerted effort to stop it. Why isn't there a concerted effort to stop this?

Sen. BRADLEY: The extent to which this now exists doesn't make it the worse crime being committed but on the other hand that doesn't say that there is nothing wrong with it and that we ought to make it lawful. If I came in here with a bill that says we ought to do away with the law on the books that prohibits these guys from selling cards in the shop because we ought to let people gamble if they want to gamble, you would hear such a uproar in this legislature. People would be saying you can't do that because it is unlawful and people shouldn't be allowed to do it. There would be a lot of opposition to it. I can't distinguish doing that from doing what we are doing other than I think what we are doing is worse.

Sen. SAGGIOTES: I find myself in a very difficult position. As a co-sponsor of greyhound racing and a supporter of sweepstakes and other forms of gambling, I have to vote against the betting card bill. The reasons are many and they have already been stated. I would like to say that as far as anyone voting for this bill because of the revenue that it might generate, they don't know what it is going to generate, no one knows. The other point is, the other forms of gambling that I have supported in the past and still support are controlled directly by the State of New Hampshire. There is a difference between this and dog racing, horse racing and sweepstakes. If we all listen to what Senator Trowbridge told us about the type of betting card that we are voting on it is a lot different than the conventional betting card. This is a betting card that can be easily fixed. If you fellow colleagues wish to take the responsibility for the fixing of betting cards in the future then go ahead and do so but I won't.

Sen. ROCK: I am going to vote against the betting card bill and I would ask the Senator from the 10th district before he casts his vote to look hard and long at some game he maybe officiating at down the path in college sports, and wonder if whether or not when that basketball player throws that ball and it misses the hoop whether he really meant to miss it or whether his game happened to be on a betting card somewhere else in some other state.

CHAIR: Question is on ordering Senate Bill 36 to third reading.

Sen. Trowbridge requested a roll call, seconded by Sen. Lamontagne on ordering the bill to third reading.

Roll Call requested by Sen. Trowbridge, seconded by Sen. Lamontagne.

The following senators voted yea: Senator Bergeron, Monier, Ferdinando, Sanborn, Bossie, Fennelly, Downing and Preston.

The following senators voted nay: Senator Lamontagne, Poulsen, S. Smith, Gard-

ner, Bradley, Jacobson, Saggiotes, Blaisdell, Trowbridge, Rock, McLaughlin, Claveau, R. Smith, Brown and Foley.

Result: Yeas 8, Nays 15

Motion lost.

Sen. Bradley moved that **SB 36** be indefinitely postponed.

Motion adopted.

TAKEN FROM THE TABLE

Sen. Poulsen moved that **SB 35** be taken from the table.

Sen. LAMONTAGNE: I am against this bill as I have stated before. I feel the State of New Hampshire has had good control of our liquor laws and I feel with this we would loose control. I think it is wrong to pass this bill at a time like this when you haven't had the opportunity to have the people speak on what they think about this type of law.

Sen. POULSEN: Do you realize that this only applies to first-class restaurants and only under the supervision of the Liquor Commission?

Sen. LAMONTAGNE: I am very well aware that this would be under their supervision, all of our laws are. Personally, I think you are opening up the door and I think you will find that it is going to affect some of our first-class restaurants. If you allow this on patios you will have some trouble.

Sen. FOLEY: I called the president of the Restuarant Association and he told me that the patios would be the same as they are on hotels and motels. They will only be in firstn-class hotels and in all probability there would be very few who want them. A couple people, particularly in the north country, have already started to build them with the feeling that this was going to go through. I called the Liquor Commission and they reiterated the fact that they were for the bill. They saw nothing wrong with the bill. We had a public hearing on this bill just like we have on every other Senate Bill. The people can come to the House hearing if they want to and give their feeling if it passes. I urge passage of the bill.

Sen. LAMONTAGNE: Patios cannot be seen from the sidewalks?

Sen. FOLEY: According to the law, it will be the same as a patio for a first-class motel and hotel. It is all right in the bill. I called to make sure because you said this was why you were against it. You said you thought people would just build fences and have patios down to Hampton Beach and it could never happen. I wouldn't be for it myself if it were like that.

Sen. LAMONTAGNE: Could the Senator show me where it is written in this bill that it would be first-class restaurants and therefore would not be seen from the sidewalk?

Sen. FOLEY: The first-class restaurant can be seen from the sidewalk but the patios will go according to the rules of patios in the hotel-motel field. We will add the words "first-class restaurants" to the bill that is already in the liquor laws pertaining to patios in hotels and motels.

Sen. DOWNING: I rise in support of the pending motion I feel the bill should be taken from the table and it ought to be passed. The safeguards are in the bill no matter what anybody applies for. The final decision is going to be left up to the Liquor Commission. If we don't feel they are capable of policing these things then maybe we ought to defeat it. The committee felt that they were capable of handling it and nothing is going to be done to any great exception than what is being done right now. It comes under their jurisdiction and will be policed fully. I urge you support the motion and urge you support the bill.

Sen. LAMONTAGNE: How come when we had a bill for bowling alleys it was turned down by the committee?

Sen. DOWNING: I don't think the bowling alley bill was turned down by the committee. I don't think the committee ever took any action on it. We consulted very closely with the Liquor Commission on this as to whether they had any problems with it, whether they felt they could properly police it and whether they felt it was a fair and equitable change in the law and they felt it was.

Sen. LAMONTAGNE: Would you accept an amendment to include the bowling alleys?

Sen. DOWNING: I don't think I want any amendment at this time.

Motion adopted.

CHAIR: **SB 35** is on second reading and open to further amendment.

SB 35, relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities. Ought to Pass.

Adopted.

Ordered to third reading.

Sen. Gardner is recorded as being opposed.

Sen. Sanborn moved that SJR #1 be taken off the table.

Motion adopted.

SJR #1, establishing a special committee to study tax reform at all levels of government.

Sen. SANBORN: The only thing this bill does is setup a committee to study the tax structure of the State of New Hampshire. It does not impose any taxes or anything of that type. It does not request a broad base tax; it doesn't request any other type of tax, it just requests that a study be made of the present tax structure. I have had many requests, especially from the elderly group, to try and get this joint resolution passed.

Sen. ROCK: I am going to support passage of **SJR #1** and I want the record to clearly show that I will take Senator Sanborn at his word and the other sponsors who have said that it is good legislative process and it is incumbent upon us as good legislators to look and see where we are going but in no way does it imply approval of the imposition of any new fair of taxes. My vote is not in any way condoning the introduction of new taxes either broad base or otherwise but I would like to see what the outcome of such a study would show and would make my decisions on any vote at that time. I will vote to support this legislation to see if to have a study would be meaningful and helpful to me in future months.

Sen. PRESTON: I would also support **SJR #1** on the same basis. I think the discussion today on the betting card bill perhaps highlighted the need for this. There are various groups in the state of retired people who have called specifically asking that we support it and take a look. I don't want my vote in anyway to imply that I support taxes. I might even vote against the results of the study but I would be for taking a good hard look at this time.

Sen. TROWBRIDGE: I was not here when we had the other debate but one of the most difficult problems we have whenever an issue such as betting cards or anything else comes up is to how many people there are in certain circumstances and what the cost would be if you gave a certain exemption to the elderly and in order to do that you have to have some data basis and some figures to work with and half the time it comes up late in the session and you have nothing to work with. For anyone who is interested in legislation, **SJR #1** is a base from which to work from.

Sen. BLASIDELL: I go along with Senator Sanborn and I hope the Senate will go along with the resolution.

CHAIR: Question is on ordering **SJR #1** to third reading.

Adopted.

Ordered to third reading.

HOUSE MESSAGES HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

SB 13, relative to the confidentiality of dental peer review committee proceedings.
See HOUSE JOURNAL of April 20th.

Sen. Bradley moved concurrence.

Adopted.

SB 43, revising the economic poisons law.

See HOUSE JOURNAL of April 20th.

Sen. Preston moved concurrence.

Adopted.

SB 40, amending a contributory pension system for employees of the city of Manchester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system.

See HOUSE JOURNAL of April 20th.

Sen. Bossie moved concurrence.

Adopted.

SB 27, making a supplemental appropriation to the bank commission, increasing the appropriation for the public defender system in Merrimack County, making a supplemental appropriation to the barbers' board and making a supplemental appropriation for fiscal 1976 for the indigent defendant program.

See HOUSE JOURNAL of April 21st.

Sen. Trowbridge moved concurrence.

Adopted.

SB 11, redefining the term "master electrician" as used in RSA 319-C and providing a credit for renewal of certain licenses.

See HOUSE JOURNAL of April 20th.

Sen. Preston moved concurrence.

Adopted.

SB 18, relative to the access right of survivors of a safety deposit box.

See HOUSE JOURNAL of April 21st.

Sen. Preston moved concurrence.

Adopted.

SB 10, repealing section 10-a of the Berlin city charter relative to absentee voting in the annual city elections; providing for the adoption of RSA 60:31-39 relative to absentee voting in city elections and repealing the 5-day requirement for correction of the checklist in Berlin.

See HOUSE JOURNAL of April 20th.

Sen. Lamontagne moved concurrence.

Adopted.

SB 9, increasing the advertising budget of the liquor commission regulating expenditures for advertising, and making an appropriation therefor.

See HOUSE JOURNAL of April 21st.

Sen. Trowbridge moved concurrence.

Adopted.

SB 22, permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefor; and relative to the location of the troop A/substation of the state police.

Sen. Trowbridge moved nonconcurrence and requested a Committee of Conference.

Adopted.

The Chair appointed Sen. Brown, Sen. Sanborn and Sen. Preston.

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets.

Sen. Blaisdell moved nonconcurrence and requested a Committee of Conference.

Adopted.

The Chair appointed Sen. Brown, Sen. Saggiotes and Sen. Blaisdell.

SB 44, relative to changes in the fuel adjustment charges of public utilities.

Sen. Rock moved nonconcurrence and requested a Committee of Conference.

Sen. ROCK; In the 1975 regular session, this Senate and the House of Representatives with concurrence by the Governor, enacted into law Senate Bill 280. Senate Bill 280 became Chapter 368 of the Laws of the 1975 session of the legislature. It set into motion the wheels which have been turning, I believe most efficiently, thanks to the excellent cooperation of the members of the committee that were established by the enactment of that bill. This committee is studying the restructuring of the Public Utilities Commission of the State of New Hampshire. The committee has held three meetings in Concord. It has met with the Public Utilities Commission. It has begun a series of public hearings throughout the state going to the people of the state. Going directly to the towns and cities, taking testimony on the feelings, wishes, desires and the problems our people have met in dealing with utilities, public utilities commissioners, rates and the broad scope of the charge of the committee in certain other matters. Had this committee not been active, had we not already held hearings in Manchester and Nashua, had we not already scheduled hearings for Concord, the 18th of this month, in Keene in the beginning of June and scheduled also the hearings for Claremont, Laconia and Berlin, I might be tempted to move for concurrence but I see in this bill some difficulty and problems as it pertains to the work that this committee is doing and I would hope that a committee of conference could be established so we could take a look at those things.

Sen. Trowbridge: The motion to nonconcur by Senator Rock would mean the so-called Proctor amendment which we have heard a great deal about in the House would then go only to committee of conference and not be debated on the floor here in the form that one can debate where one can amend. I think it would be unwise for us at this time to setup a committee of conference at which point unless the conferees on both sides come out with something that they want and its unamendable you are going

to box yourself in. I think that this time, now, maybe we should nonconcur and have another motion that won't foul up the system but will keep this thing so that we aren't debating the Proctor amendment after a long day.

Sen. TROWBRIDGE: I move that the motion to nonconcur be laid on the table.

Sen. MONIER: What is the purpose of the motion? Is it so that later on we can debate what we are going to do with the Proctor amendment in terms of Senate Bill 44?

Sen. TROWBRIDGE: Precisely, I think at that point when we can take a look at the Proctor amendment and have the time and not just look at what the committee on conference brought to us.

Sen. MONIER: This will not be dead by staying on the table at this time?

CHAIR: It will have an opportunity to be back sometime next week. It will be discussed then and will not die.

Adopted.

HOUSE NONCURRENCE IN SENATE BILLS

SB 30, amending the qualification requirements for the directors of the divisions of public health services, welfare and mental health within the department of health and welfare. Referred to Committee on Health and Welfare for Interim Study.

SB 34, to permit the taking of depositions by means of video tape recordings. Referred to Committee on Judiciary for Interim Study.

SUSPENSION OF RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third reading and final passage.

SB 53, relative to workmen's compensation coverage for domestic employees.

SB 49, relative to the operation of the print shop in the office of the commissioner of resources and economic development.

SB 52, to eliminate literacy tests for voters.

Sb 39, requiring credit card companies to notify credit card holders whenever their records are disclosed to any federal or investigatory agency under court order or subpoena.

SB 55, relative to the payment of school building aid money to the Sanborn and Timberlane regional school districts and the Wakefield school district.

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

SB 57, establishing the New Hampshire incentive program combining grants and loans and making an appropriation therefor.

SB 26, relative to a drive alcohol retraining program and relating to the restoration of driving privileges upon a finding of not guilty of driving under the influence of intoxicating liquors or controlled drugs.

SB 59, relative to the authority of the state board of education to remove or to authorize the employment of superintendents, assistant superintendents, teacher consultants and business administrators.

SB 54, to give the superior court injunctive power over certain motor carrier activities.

SB 35, relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities.

SJR #1, establishing a special committee to study tax reform at all levels of government.

Sen Jacobson moved that the Senate recess until Thursday March 13, at 10:00 a.m. and that when we adjourn Thursday, we will adjourn until Tuesday, March 18 at 10:00 a.m.

Adopted.

RECESSED AT 6:10 p.m.

Tuesday, 18 May 1976

OUT OF RECESS

HOUSE MESSAGES
HOUSE REQUESTS CONCURRENCE
First and second reading and referral

HB 46, increasing the salary of the director of state police and making an appropriation therefor.—To Finance

HB 24, making an appropriation for capital improvements.—To Joint Finance and Capital Budget

HB 6, improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and making an appropriation therefor.—To finance

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance.—To Joint Public Institutions and Finance

HOUSE CONCURRENCE

SB 45, to increase the maximum interest payable on bonds issued by a public housing authority.

SB 24, amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to New Hampshire upon discharge from military service.

HOUSE ACCEDES TO REQUEST FOR COMMITTEE
OF CONFERENCE

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets.

The Speaker appointed Representatives Drake, Kidder, McGuinness and Gillis.

SB 22, permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefor.

The Speaker appointed Representatives Scamman, LaMott, Belcourt and Mahoney.

HOUSE REQUESTS CONCURRENCE IN AMEND-
MENTS

SB 33, upgrading professional staff requirements and certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor.

See HOUSE JOURNAL of May 12.

Sen. Trowbridge moved the Senate concur in the amendment.

Motion adopted.

SB 10, relative to property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes.

Sen. Blaisdell moved the Senate nonconcur and set up a committee of conference.

Motion adopted.

The Chair appointed Senators Sanborn, Brown and Downing as members of the committee of conference.

Sen. Sanborn moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until May 18, at 10:00 a.m.

Adopted.

LATE SESSION

Adopted.

The Senate met at 10:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Our Father, as we draw near to thee in prayer, we draw nearer to one another in common needs. You know our innermost feelings, preserve us we pray from discouragement and despair. Also please deliver us from fears which darken our days and affect our power. Endow us with wisdom that will strengthen our stewardship in these turbulent and dangerous times. Help us, Oh Lord, to welcome all that is healthiest in change, that we may strengthen our State's welfare and be unafraid of our future. Amen.

The Pledge of Allegiance was let by Mrs. Alf E. Jacobson.

VACATE

Sen. Trowbridge moved that HB 4 be vacated from the Senate Finance Committee and be sent to the Special Committee on Mental Health Insurance.
Motion adopted.

COMMITTEE REPORTS

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution. Ought to pass. Sen. Trowbridge for the Committee on Finance.

Sen. Trowbridge moved the adoption of an amendment.

Amendment to HB 1

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and relative to the state share of the normal contribution for non state employee members of the N. H. Retirement System, the firemen's retirement system and the policemen's retirement system.

Amend the bill by striking out section 2 and inserting in place thereof the following:
2 State Contribution. Amend RSA 100-A:16, II, (b), (c), (d), and (e) (supp) as inserted by 1967, 134:1 as amended by striking out said subparagraphs and inserting in place thereof the following:

(b) The contributions of each employer for benefits under the retirement system on account of group II members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the accrued liability contribution; provided that any employer, pay both normal and accrued liability contributions. The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuation.

(c) The contributions of each employer for benefits under the retirement system on account of group I members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the "accrued liability contribution"; provided that, in the case of teachers, any employer, other than the state, shall pay 60 percent of such total

contributions, and 40 percent thereof shall be paid by the state; and provided further that in case of teacher members employed by the state the state shall pay both normal and accrued liability contributions. The rate percent of such normal contribution in each instance shall be fixed on the basis of the liabilities of the system with respect to the particular members of the various member classifications as shown by actuarial valuation.

(d) Commencing with the date of establishment and until the amount of the unfunded accrued liability has been established, the board of trustees shall determine the percentage normal contribution rate on account of each member classification as the uniform and constant percentage of the earnable compensation of the average new entrant member which, if contributed on the basis of his earnable compensation throughout his entire period of active service, would be sufficient to provide for the payment of any state annuity payable on his account from contributions by the employer. Commencing with the valuation as of June 30, 1969, the percentage normal contribution rate shall be determined after each actuarial valuation as the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the state annuity accumulation fund on account of each member classification the amount of the unfunded accrued liability, and the total amount of the funds in hand to the credit of the respective member classifications in that fund and dividing the remainder by one percent of the present value of future compensation of all members within the appropriate member classification. Until the actuarial valuation as of June 30, 1969 has been prepared, the normal contribution rate for employee members shall be 3-2/10 percent, for teacher members shall be 3-1/2 percent, for permanent policemen members shall be one percent, and for permanent firemen members shall be one percent.

(e) Immediately following the actuarial valuation prepared as of June 30, 1968, the board shall have an actuary determine the amount of the unfunded accrued liability for each member classification as the amount of the total liabilities of the state annuity accumulation fund on account of such classification which is not dischargeable by the total of the funds in hand to the credit of the state annuity accumulation fund on account of such classification, and the aforesaid normal contributions to be made on account of the members in such classification during the remainder of their active service. The amount so determined with respect to each member classification shall be known as the "unfunded accrued liability" with respect to such classification. On the basis of each such unfunded accrued liability, the board shall have an actuary determine the level of annual contribution required to discharge such amount over a period of 20 years from June 30, 1968.

3 Limitation on Contribution; N. H. Retirement System. Amend RSA 100-A:16, II by inserting after subparagraph (g) the following new subparagraphs:

(h) Notwithstanding any other provisions of this chapter, the total amount to be expended by the state for its share of the normal contribution for non state employee members shall not exceed in any fiscal year \$2,000,000 for teachers, \$1,000,000 for policemen, and \$1,000,000 for firemen.

(i) Notwithstanding any other provisions of this chapter, the total amount to be expended by the state for its share of the accrued liability contribution for non state employee members shall not exceed in any fiscal year \$134,054 for teachers, \$455,359 for policemen, and \$85,963 for firemen.

4 State Contribution for Firemen's Retirement System. Amend RSA 102:10 (supp) as amended by striking out said section and inserting in place thereof the following: 102:10 Contributions.

I. At the beginning of each year commencing on the first day of July the board of trustees shall certify to each employer other than the state the percentage rates of contribution due the system from each such employer, and shall assess upon each such employer such percentages of the earnable compensation of members in its employ, and it shall be the duty of the treasurer or other disbursing officer of each such employer to pay to the board of trustees such portion of the annual amount so assessed at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments.

II. The contributions of each employer for benefits under the retirement system on account of firemen members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution", and an additional amount to be known as the "accrued liability contribution"; provided that any employer, other than the state, shall pay 60 percent of such total contributions, and 40 percent thereof shall be paid by the state; and provided further that in case of firemen members

employed by the state the state shall pay both normal and accrued liability contributions.

5 Normal Contributions. Amend RSA 102:11 (supp) as amended by striking out said section and inserting in place thereof the following:

102:11 Normal Contribution Rate. The normal contribution rate shall be determined as the uniform and constant percentage of the annual salary of the average new permanent fireman entering the system which, if contributed on the basis of his salary throughout his entire period of active service would be sufficient, together with the assessment provided in RSA 102:9, to provide for the payment of any benefit payable on his account under this chapter. The accrued liability contribution shall be determined by the actuary as the amount necessary to liquidate the unfunded accrued liability as of June 30, 1968 over a period of 20 years from that date. The unfunded accrued liability is the amount of the total liabilities of the system which is not dischargeable by the funds in hand, the assessment and the normal contribution. After the determination of the unfunded accrued liability as of June 30, 1968, the normal contribution shall be determined after each actuarial valuation as the rate percent of the annual salary of each participating permanent fireman obtained by deducting from the total liabilities of the system the amount of the funds in hand, the present value of future assessments and the then current unfunded accrued liability and dividing the remainder by one percent of the present value of the future salaries of all permanent firemen who are then participating in the system.

6 Limitation on Contribution; Firemen's Retirement System. Amend RSA 102 by inserting after section 11 the following new section:

102:11-a Contribution Limit. Notwithstanding any other provisions of this chapter, the total amount to be expended by the state for its share of the normal contribution for non state employee members shall not exceed in any fiscal year \$1,000,000 and the state's share of the accrued liability contribution for non state employee members shall not exceed in any fiscal year \$243,280.

7 Contributions for Police System. Amend RSA 103:9 by striking out said section and inserting in place thereof the following:

103:9 Contributions.

1. At the beginning of each year commencing on the first day of July the board of trustees shall certify to each employer other than the state the percentage rates of contribution due the system from each such employer, and shall assess upon each such employer such percentages of the earnable compensation of members in its employ, and it shall be the duty of the treasurer or other disbursing officer of each such employer to pay to the board of trustees such portion of the annual amount so assessed at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments.

11. The contributions of each employer for benefits under the retirement system on account of police members shall consist of a percentage of the earnable compensation of its members to be known as the "normal contribution"; and an additional amount to be known as the "accrued liability contribution"; provided that any employer, other than the state, shall pay 60 percent of such total contributions, and 40 percent thereof shall be paid by the state; and provided further that in case of police members employed by the state the state shall pay both normal and accrued liability contributions.

8 Rate of Contribution; Police System. Amend RSA 103:10 (supp) as amended by striking out said section and inserting in place thereof the following:

103:10 Normal Contribution Rate. The normal contribution rate shall be determined as the uniform and constant percentage of the annual salary of the average new permanent policeman entering the system which, if contributed on the basis of his salary throughout his entire period of active service would be sufficient, together with the assessment provided in RSA 103:7, to provide for the payment of any benefit payable on his account under this chapter. The accrued liability contribution shall be determined by the actuary as the amount necessary to liquidate the unfunded accrued liability as of June 30, 1968 over a period of 20 years from that date. The unfunded accrued liability is the amount of the total liabilities of the system which is not dischargeable by the funds in hand, the assessment and the normal contribution. After the determination of the unfunded accrued liability as of June 30, 1968, the normal contribution shall be determined after each actuarial valuation as the rate percent of the annual salary of each participating permanent policeman obtained by deducting from the total liabilities of the system the amount of the funds in hand, the present value of future assessments and the then current unfunded accrued liability and dividing the

remainder by one percent of the present value of the future salaries of all permanent policemen who are then participating in the system.

9 Limitation on Contribution; Police System. Amend RSA 103 by inserting after section 10 the following new section:

103:10-a Contribution Limit. Notwithstanding any other provisions of this chapter, the total amount to be expended by the state for its share of the normal contribution for non state employee members shall not exceed in any fiscal year \$1,000,000 and the state's share of the accrued liability contribution for non state employee members shall not exceed in any fiscal year \$26,110.

10 Effective Date.

I. Section 1 of this act shall take effect upon its passage.

II. Sections 2 through 9 of this act shall take effect July 1, 1977.

Amendment adopted.

Ordered to third reading.

HB 44, extending the appropriation to complete Fish and Game Hatchery at Milford to June 30, 1977. Ought to pass with amendment. Sen. Blaisdell for the Committee on Finance.

Amendment to HB 44

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance and control of expenditures and providing for the continuation of the Coho salmon program.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Footnote Amended. Amend the footnote following 1975, 505:1.03, 01, 04, 05 which reads "'No monies shall be expended for land acquisition or purchase of dams during the biennium.'" by striking out said footnote and inserting in place thereof the following (*No monies shall be expended for land acquisition or purchase of dams during the biennium, except that within the approved budget, fish and game personnel may be utilized to perform such services as may be necessary in accepting gifts of land or where the state's share of land costs are donated by the owner to the state on land purchased with federal funds. Class 20 and 70 funds may be used for the incidental expenses incurred in the foregoing transactions.)

3 Repeal.

I. RSA 206:36 relative to the unexpended balance of the fish and game fund, is hereby repealed.

II. RSA 206:37, relative to the control of expenditures of the fish and game fund, is hereby repealed.

4 Coho Salmon Program. Amend 1975, 505:16. IV, by striking out said paragraph and inserting in place thereof the following:

IV. The fish and game department shall continue with the Coho Salmon program within the limits of funds appropriated in the biennial operating budget; provided however, a substitute program for anadromous fish may be authorized if said department can certify to the fiscal committee of the general court and the governor and council that federal funds will be currently available for such a substitute program at the Milford hatchery in the same amounts as contained in the biennial operating budget for the Coho salmon project.

5 Effective Date. This act shall take effect upon its passage.

Sen. Saggiotes moved that the question on the committee amendment be divided so that when we vote, we vote on Section 3 separately and then vote on Sections 2, 4 and 5.

Motion failed.

Amendment adopted.

Ordered to third reading.

Sen. Monier is recorded as being opposed to ordering HB 44 to third reading.

HB 7, defining the responsibility for the planning of sewerage projects in the Winnebago river basin; defining project allocation under P.L. 92-500; and making an

appropriation for algae control in the surface waters of the state. Ought to pass with amendment. Sen. S. SMITH for the Committee on Finance.

Sen. S. SMITH: This is a rather complex piece of legislation in its wording but is, in fact, a simple bill. It puts the towns in the Winnepesaukee River Basin on the same basis as getting money for planning as all of the other towns in the state, that is federal money. It allows for the planning money to be spent for common or interceptor sewers. Also, the state and the towns would be eligible for federal funds under this. In addition, what the project does is anticipate that maybe there will be \$34,000,000 in federal funds made available towards sewage projects. If this is the case, the monies could be used for common sewers or interceptor sewers, due to the fact that we can't get the construction of sewer plants and so forth planned and under construction in time for the state or the towns to avail themselves of these federal monies. If we don't do this, and the money comes through, we could lapse all of the fund. The fourth and final section of the bill deals with algae control surface waters of the state and makes a \$60,000 appropriation which does not lapse until June 30, 1977 to take care of the algae in the various lakes of the state. There was a House amendment on this and it had many weaknesses. We felt that this was the way it had been done in the past and was a reasonable method. The other House amendment wanted the towns to participate and this was impossible. The towns have already had their meetings and you run into the problem where a lake is in three or four towns, who is going to pay how much. I hope that the Senate will go along with the passage of the bill.

Sen. BERGERON: Are the lateral sewers still included in the amendment?

Sen. S. SMITH: For federal funding if this money becomes available.

Sen. BERGERON: Is this assistance limited strictly to the municipalities in the Winnepesaukee River Basin or is this state wide?

Sen. S. SMITH: It is state wide.

Amendment to HB 7

Amend the bill by striking out all after section 2 and inserting in place thereof the following new sections:

3 Defining Project Allocation under P.L. 92-500. Amend 1975, 505:1.03, 05, by adding to the *footnote at the end thereof the following (Other provisions of law notwithstanding, the New Hampshire water supply and pollution control commission is hereby directed to allocate only those projects, which qualify for state aid under RSA 149-B, to federal grants made available under P.L. 92-500, 92nd Congress (subsequent amendments thereof, or any other relevant federal legislation), unless the commission determines that federal funds due to the state under P.L. 92-500 would revert to the federal treasury for failure to allocate same prior to further legislative action, in which circumstance, the commission shall seek the prior approval of governor and council to allocate such funds to the state or to a municipality whose water treatment and common sewer system have the greatest impact on the water quality of the state.) so that said footnote as amended shall read as follows:

*The water supply and pollution control commission is hereby designated as the agency to accept, with the approval of the governor and council, under the provisions of the Federal Water Pollution Control Act, 86 stat. 816 et seq. (33 U.S.C. 1281 et seq.), any additional federal funds made available to expedite plan review, certification, grant approval and other procedures involved in the construction of pollution control projects; including resident engineering and construction inspectional services on federally aided water pollution control projects. The commission, in accordance with state statutes, may enter into agreements with municipalities to provide resident engineering and associated inspectional services and may, provided the additional federal funding anticipated herein is made available, employ an additional chief engineer, administrator, together with such additional personnel and assistance as may be required to implement the provisions specified hereunder, within the limitations of available funding. Other provisions of law notwithstanding, the New Hampshire water supply and pollution control commission is hereby directed to allocate only those projects, which qualify for state and under RSA 149-B, to federal grants made available under P.L. 92-500, 92nd Congress (subsequent amendments thereof, or any other relevant federal legislation), unless the commission determines that federal funds due to the state under P.L. 92-500 would revert to the federal treasury for failure to allocate same prior to further legislative action, in which circumstance, the commission shall seek the prior approval of governor and council to allocate such funds to the state or to a

municipality whose water treatment and common sewer system have the greatest impact on the water quality of the state.

4 Appropriation for Algae Control in the Surface Waters of the State. In addition to any other sums appropriated there is hereby appropriated to the water supply and pollution control commission the sum of \$10,000 for the fiscal year ending June 30, 1976 and \$50,000 for the fiscal year ending June 30, 1977 for the purposes of RSA 149-F, the control of algae and other aquatic nuisances. The same sums shall be a charge against general funds and shall not be used, transferred or expended for any other purpose and shall not lapse.

5 Effective Date. This act shall take effect upon passage.

Amendment adopted.

Ordered to third reading.

HB 10, making an appropriation to reimburse mental health facilities under the medicaid program. Ought to pass with amendment. Sen. Trowbridge for the Joint Committee on PUBLIC Institutions and Finance.

Sen. TROWBRIDGE: This is part of our increasing program by the state to try and qualify as much as possible for medicaid reimbursement to our state facilities. You will remember that we have done it with Laconia and we have done it with the New Hampshire Hospital of making transfers from the hospital over to Welfare. Welfare matches with federal medicaid funds and the hospital itself receives 60 percent more money because of the medicaid eligibility of the people in the program. The same thing is happening with the mental health centers. Many of the people who go to the community mental health centers are eligible for medicaid reimbursement. What is happening in House Bill 10, the amendment is absolutely technical, it corrects reference numbers in the bill, is that the Department of Mental Health is transferring to the Department of Welfare \$287,000 out of its budget over to Welfare. Welfare will use that to match \$437,000 of medicaid reimbursement from the Federal Government so that the community mental health centers will in turn, receive back \$725,000 total for an investment of \$287,000, a fairly good return. This is the same process that we have been using in funding of the Hospital and Laconia. It is available and the estimates of revenue are quite accurate. We know that transferring and using federal funds is the most beneficial way to the state that we don't have.

Amendment to HB 10

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making an appropriation to reimburse mental health facilities under the medicaid program.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Authorizing Reimbursement to Community Mental Health Facilities for Services Provided Welfare Clientele Under Medicaid. Amend 1975, 505:21 by striking out section and in rting in place thereof the following:

1. 505:21 Medical Assistance. It is hereby declared to be the intent of the general court that the appropriation made by section 1.05, 03, 07, 03, 01 (medical assistance provider payment) of this act shall first be for the payment of mandatory services; second, for the payment of nursing home services; third, for the payment of prescribed drugs and fourth, for the payment of dental care services. The director of the division of welfare shall continue to provide medical services to the medically needy consistent with the applicable federal regulations and within the amounts appropriated.

11. The sum of \$725,000 is hereby appropriated to the division of welfare for fiscal year 1977 and credited to the appropriations made in section 1.05, 03, 07, 03, 01, 90, which shall be expended to reimburse the public and private community mental health facilities in New Hampshire for services rendered to public welfare clientele under the medicaid program. The sources of the funds for this appropriation are as follows: the sum of \$287,970 shall be transferred from the division of mental health from the appropriation made in section 1.05, p3, 04, 01, 02, 90, and the sum of \$437,030 shall be from federal funds obtained under Title XIX of the federal Social Security Act.

2 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Ordered to third reading.

HB 21, making an appropriation for operating and capital expenses of the department of health and welfare. Ought to pass with amendment. Sen. Brown for the Joint Committee on Capital Budget and Finance.

Sen. BROWN: I will explain the capital appropriation parts and Senator Trowbridge will explain the operation. This is exactly as it came to us from the House. There are no changes in the capital appropriation part as in the original House Bill. As you recall, in the 1974 capital budget we had a five year plan to renovate four buildings at the New Hampshire Hospital, namely the Tobey, Thayer, Brown and Walker Buildings. The Tobey Building is completed except for furnishings. The original appropriation for furnishings and equipment was \$40,000. They have come back and are requesting \$143,000 more because the \$40,000 is not near enough for the equipment and furnishings. Now they are ready under the five year plan to start the renovations and reconstruction of the Brown Building. In order to do so under the five year plan the incorporation is \$2,800,000 which is keeping in line with the proposed plan. Roman numeral II in Section 4 of the bill, refers to the forensic unit at the New Hampshire Hospital. This appropriates \$30,000 for security screens and doors so as to increase the maximum security for the inmates and the rooms in which they need to do so from 32 to 62. Roman numeral III, the Pleasant View Home which is the Christian Science Building we bought, when we bought it there was absolutely no furniture, rugs or anything else in it and to do this and to get the patients in there out of the other building so they can renovate, there is an appropriation of \$400,000 for furnishings and so forth so they will be able to put the patients in. The last part of roman numeral III is the life safety code, to bring it up to standard to meet the state and federal requirements to put patients in and that is \$370,000. That is the capital incorporation part of House Bill 21.

Sen. TROWBRIDGE: House Bill 21 is a very difficult thing to explain. If you look at the original House Bill 21 you will see that it is following up on many of the things Senator Brown talked about, namely that it revises custodial care, grounds keepers for the Pleasant View Home which we have now taken over and now comes under the Division of Health and Welfare. At the New Hampshire Hospital you see these figures and you will see a line saying custodial care and maintenance, permanent personal services \$6,760. That is for a person out there who is a medicaid administrator, it is someone, we were just talking about the medicaid transfers from the hospital, every ninety days they have to renew the medicaid eligibility, they want one clerk who can work on that which brings in about 2.8 million dollars in extra fund so I think that is a useful investment of \$6,760. You see here they have switched around and given up food service workers, they have taken on a good deal of people, about 28, to man the new forensic unit. That is a big big problem. In this amendment you see the professional services required, seven days a week and three shifts, you have to have 28 people to have 5 people on the floor at all times. Going along here there are other items. We have the AFDC contingency fund. We have a million to two million dollars in case the Welfare Department finds that it is running out of AFDC funds that it is there from federal matching. This is for March of 1977, in this bill is 1 million dollars which will match with a million five to make two million five hundred thousand dollars available to the Welfare Department if they need it. For three years in a row we have done this and they have always said we don't need it and each time they have come in and drawn it down entirely. I think this is something that we just simply have to do and it is one of the biggest items in the projections of what we are doing in this section. Another million dollars has to be plugged into AFDC and that is in House Bill 21. The rest of the things are really changes within budgets, taking out footnotes because it used to be that the Comptroller, Buildings and Grounds, had control of the Pleasant View Home, now it is being shifted into the Department of Health and Welfare then you have to footnote out that it is no longer in Buildings and Grounds. It is that kind of nitty gritty bill. I will answer any questions but it is completely uncontroversial when you have heard all the testimony of why we did it.

Sen. McLAUGHLIN: With the passage of House Bill 21 doesn't this guarantee that the hospital will be accredited for the next 6 months?

Sen. TROWBRIDGE: Guarantee is a tough word, but with the plans that we're making with the Pleasant View Home, which will allow them to move the patients into Pleasant View and then go at the other buildings that Senator Brown talked about to renovate, with the passage of a statute of this sort, saying that the State of New Hampshire has a plan and has allocated the bonds, bonding capacity to do it, and with the Forensic unit and other things being improved, which are all part of the whole picture, I think it would be very difficult for an accreditation committee to say that this

institution has not come a long way. I have met one of the members who is a New England member of the Accreditation Committee, I won't mention his name, and I know he is well aware of the progress that is going on. So, the answer is, no one can guarantee it but certainly this is what they are looking for, this kind of continued progress at the Hospital.

Sen. LAMONTAGNE: Has there been any consideration done for the Old Age Assistance?

Sen. TROWBRIDGE: Old age assistance, as far as I know, has not been overdrawn. In other words, the appropriation for the Old Age Assistance have come out to the point where the matching grants have been used up, yes, but they have not been overdrawn. What happened in the last budget, 1975, we decided that we would not put the million dollars for March of 1977 because we knew that the legislature would be back in session by then and could do something if they wanted to. Now that we're here, not in 75 but in 76, it's likely that in March of 77 the Welfare Department will come in with the same kind of need that they did the half of the last three years. So rather than ignore the issue we, and the House agreed, to put up the million dollars which provides two million five at this time. But it's not like Old Age Assistance because Old Age Assistance is not overdrawn.

Amendment to HB 21

Amend paragraph III of section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III. New Hampshire hospital:

Custodial care and maintenance-administration:

10 Permanent personal services	\$6,760
30 Equipment	450
62 Benefits	676

Total	\$7,886
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Estimated source of funds for custodial care and maintenance-administration:

General Fund	\$7,886
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Total	\$7,886
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Professional care and treatment:

10 Permanent personal services	\$173,899
30 Equipment	1,800
62 Benefits	17,350

Total	\$193,089
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Estimated source of funds for professional care and treatment:

General fund	\$193,089
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Pleasant View Home

10 Permanent personal services	\$ 55,591
20 Current expenses	49,700
62 Benefits	5,560

Total	\$110,851
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Estimated source of funds for Pleasant View Home:

General fund	\$110,851
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Total	\$389,689
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Estimated source of funds for Department of Health and Welfare:

General fund	\$389,689
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Amend the bill by striking out section 9 and inserting in place thereof the following:

9 New Hampshire Hospital, Custodial Care and Maintenance—Administration.

Amend 1975, 505:1.05, 03, 04, 03, 01, 20 by striking out same and inserting in place thereof the following:

20 Current Expenses	2,580,500	2,658,200
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Amend the bill by striking out section 12 and inserting in place thereof the following:

12 Footnote Added. Amend 1976, 2:1, 11 by striking out same and inserting in place thereof the following:

	Fiscal 1976	Fiscal 1977
II. Division of Welfare		
Medical Assistance		
Institutional inpatient		
psychiatric care*	\$1,299,400	\$2,598,800
Estimated source of funds for		
medical assistance:		
Federal	\$ 783,278	\$1,566,557
General fund	516,122	\$2,598,800
Total	\$1,299,400	\$2,598,800

*The funds in this appropriation shall not be transferred or expended for any other purpose and shall not lapse until June 30, 1977.

13 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Amendment adopted.
Ordered to third reading.

HB 2, making a supplemental appropriation to the operating budget of the secretary of state for expenses related to the decennial renewal of voluntary corporation charters. Ought to pass with amendment. Sen. Saggiotes for the Committee on Finance.

Sen. SAGGIOTES: House Bill 2 originally was for the supplemental appropriation for the expenses for the decennial renewal or voluntary corporation charters. It appropriates a sum of \$2,500 for fiscal year 76 and \$4,000 for fiscal year 77. It has turned out to be sort of a super omnibus bill and we have on page 25 of today's journal 7 amendments to the original bill. The first amendment is an additional appropriation of \$30,000 to the Secretary of State's office for the red book. Number 3 are technical changes on revenue sharing and this was recommended by the Comptroller's office. Section 4 is an additional appropriation for the Veteran's Home, \$6,000 for current expenses for 1976 and \$6,000 for other personal services for 1977. The increase in income would be more than enough to offset this appropriation. Number 5 is for the Adjutant General's office for the intrusion detection system and appropriates \$23,950.00 for the first year for the installation of the intrusion system and \$3,700 for the operational costs of the second year. Both of these figures are subject to 75% federal match and the installation of these detection systems would be in specific areas where special weapons are kept. Number 6 is a transfer from Legislative Services of \$500.00 and actually reduces their appropriation by \$500.00. Number 7 increases the appropriation by \$500.00 for out-of-state travel and the last section of the amendment is for the Department of Employment Security which continues the present federal program whereby people that collect unemployment compensation due to loss of jobs related to industries that compete with foreign imports, this program will continue for another year.

Amendment to HB 2

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making supplemental appropriations to certain state agencies: amending the law relative to the use of revenue sharing funds and relative to agreements under the Trade Act of 1974.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation for Printing and Binding. In addition to any other sums appropriated for the secretary of state the sum of \$30,000 is hereby appropriated for the 1977 fiscal year as follows:

Legislative services division:

printing and binding for general court

\$30,000

The governor is authorized to draw his warrant for aid sums out of any money in the treasury not otherwise appropriated.

3 Use of Revenue Sharing Funds Amend 1975, 505:46 by striking out said section and inserting in place thereof the following:

505:46 Use of Revenue Sharing Funds. For each year of the biennium, the amounts appropriated from the general fund in section 1 category 01, general government, through and including category 06, education, of this act, in the order in which they appear shall be charged to federal funds received under the provisions of the State and Local Assistance Act of 1972 (PL 92-512) as amended or received under the provisions of any other federal law for the same general purpose, to the extent said amounts charged will not exceed revenues received and due or interest earned under the provisions of the act, for each respective year of the biennium except for the following items: section 1, the following portions identifies as 01, 03; 01, 04; 02,02; 02,03; 02,05; 02,06; 02,08 thru 02,13; 02,15 thru 02,24; 03,01 thru 03,03; 03,05; 04,04; 04,05; 04,06; 04,07; 05,01; 05,03; except 05,03,04,02 (Laconia state school); 05,03,04,03 (N.H. hospital); 05,03,06 (N.H. home for the elderly); 06,03 except 06,03,03 (financial aids to districts—non-federal); 06,04; 06,05; 06,06; 06,07,08; 06,07,09; 06, 07, 10.

4 Veteran's Home Appropriations.

I. In addition to any other sums appropriated, there is hereby appropriated to the veteran's home, veteran's home custodial care the sum of \$6,000 for current expenses for the fiscal year 1976. Said appropriation shall be a charge against the general funds of the state and the governor is authorized to draw his warrant out of any money in the treasury not otherwise appropriated.

II. In addition to any other sums appropriated, there is hereby appropriated to the veteran's home, veteran's home professional care the sum of \$6,000 for other personal services for the fiscal year 1977. Said appropriation shall be a charge against agency income.

1975, 505:1.02,02,01 by striking out same and inserting in place thereof the following:

5 Adjutant General—Intrusion Detection Systems Appropriation Amend

01 Adjutant general's maintenance of a prepared force:

10 Permanent personal services	384,358	388,358
11 Salary of adjutant general	17,292	1,725
20 Current expenses*	317,407	327,517
30 Equipment	4,510	4,284
50 Other personal services	400	400
62 Benefits	40,188	40,632
70 In-state travel	650	675
80 Out-of-state travel	650	700
90 Contract maintenance repairs	15,000	15,500
91 Maintenance prepared force	8,000	9,000
92 Intrusion detection system design and installation F		
93 Intrusion detection system—operation and maintenance	23,950	3,720

Total 812,405 808,511

Estimated source of funds for adjutant general's maintenance of a prepared force:

01 Transfer from motor vehicle	17,000	17,000
06 Agency income	143,434	132,669
General fund	651,971	658,842

Total 812,405 808,511

*In this appropriation \$68,000 each fiscal year is for current expense items for Pease Air Force base and may not be transferred or expended for any other purpose, the state matching funds of \$17,000 each fiscal year for Pease Air Force base current expense items shall be the maximum state funds provided for this purpose.

6 Legislative Services Appropriation Decreased. Amend 1975, 505:1.01,02,02,80 by striking out same and inserting in place thereof the following:

80 Out-of-state travel 500 500

7 Administrative Procedures Appropriation Increased. Amend 1975, 505:1.01, 02,05,01 by inserting after the line

"62 Benefits 2,659 2,659"

the following new line:

80 Out-of-state travel

500 500

8 Agreement Under the Trade Act. Amend RSA 282:21 (supp) as inserted by 1965, 373:1 as amended by striking out said section and inserting in place thereof the following:

282:21 Agreement Authorized.

I. The department of employment security, through its commissioner, is hereby authorized to enter into an agreement, effective April 3, 1975, with the secretary of labor of the United States to become an agent of the United States in order to carry out the provisions of chapter 2 of title 11 of the Trade Act of 1974 (P.L. 93-618), and to perform such acts and do all those things necessary to fully carry out such agreement.

II. Solely for the purposes of carrying out the agreement authorized in paragraph I of this section, and notwithstanding other provisions of this chapter to the contrary, the provisions of this section permit (a) the payment of unemployment compensation benefits to an individual undergoing a training or retraining program under said federal law, (b) an individual to receive unemployment compensation benefits through supplemented by a trade readjustment assistance allowance, and (c) the use of monies in the contingent fund provided by RSA 282:10-c for payment to the United States of America where it has been found that there was gross negligence, fraud or failure to take appropriate recovery action by New Hampshire under the terms of the agreement.

9 Repeal.

I. 1975, 486:2 relative to agreements under the Trade Act of 1974 is hereby repealed.

II. Amend 1975, 486:3 by striking out said section and inserting in place thereof the following:

486:3 Effective Date. Section 1 of this act shall take effect upon its passage.

10 Repeal. RSA 282:21, relative to agreements under the Trade Act of 1974, is hereby repealed.

11 Effective Date. Section 10 of this act shall take effect July 1, 1977. All other sections of this act shall take effect upon passage.

Amendment adopted.

Ordered to third reading.

HB 8, making a supplemental appropriation to the operating budget of the state prison for riot related and other expenses and changing the operating budget of the New Hampshire youth development center. Ought to pass with amendment. Sen. McLaughlin for the Committee of Finance.

Sen. McLAUGHLIN: I recommend passage of House Bill 8 with amendment for the following reasons. This is relative to the riot that was held at the prison sometime ago. We have all kinds of figures relative to how much cost was involved in damage and so forth and what we are doing here now is putting some money back into some of the problems that existed up there at that time. Our biggest expense in the whole thing is relative to food. An amount of food was destroyed during the riot. They had about \$37,000 worth of food on hand before the riot started and when they were all through they had something like \$32,000 worth of food that could be used. They lost something like \$4,000 worth of food in the whole thing. Maintenance cost is increased. We have a transfer of funds from one item to the other. The State Hospital supplied the food to the men while the riot was in progress and thereafter in the lockup, that might have come out of the general fund. What we are talking about here is the actual food that was destroyed while the riot was going on. It comes to \$32,000 which is part of the total that we have here today. The other part in reference to the Youth Development Center is just a matter of taking funds and putting them from one to the other. We are transferring out of custom control numbers 22 and 23 and putting it into current expenses number 20. This is just an adjustment of figures from one part to the other. I think it is a very economical figure we have come up with because the original figures we heard were 2 or 3 hundred thousand dollars in damage at the time because of the riot. It has been reviewed and revamped and so forth, so we are only asking for \$83,000 at this time. I recommend passage.

Amendment to HB 8

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

I Supplemental Appropriation. In addition to any other sums appropriated to the state prison, the sum of \$83,300 is hereby appropriated to the state prison for fiscal year

1976 to be expended as follows and shall not be transferred or expended for any other purpose.

			Fiscal 1976
21 State prison:			
01 Administration			
20 Current expenses			\$1,000
Estimated Source of Funds for			
Administration:			
General fund			\$1,000
02 Agriculture			
20 Current expenses			\$1,500
Estimated Source of Funds for			
Agriculture:			
General Fund			\$1,500
03 Custodial Care:			
20 Current expenses	\$2,000		
50 Other personal services	7,000		
Total			\$9,000
Estimated Source of Funds for			
Custodial Care:			
General Fund			\$9,000
04 Operation and Maintenance Plant:			
20 Current expenses			\$3,000
Estimated Source of Funds for			
Operation and Maintenance Plant:			
General Fund			\$3,000
07 Treatment:			
20 Current expenses			\$5,000
Estimated Source of Funds for			
Treatment:			
General Fund			\$5,000
10 Riot Related:			
20 Current expenses	13,000		
21 Food	32,600		
50 Other personal services	5,000		
90 Maintenance repairs	13,200		
Total**			\$63,800
Estimated Source of Funds for			
Riot Related:			
General Fund			\$63,800
*This appropriation shall not lapse until June 30, 1977.			
**This appropriation shall be used to replace funds utilized for riot related purposes.			
Total			\$83,300
Estimated Source of Funds for			
State Prison:			
General			\$83,300

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Changing the Fiscal 1976 Appropriation for the Youth Development Center. Amend 1975, 505:1.02, 22, 01 by striking out said paragraph and inserting in place thereof the following:

01 Custodial care:

10 Permanent personal services	\$848,543	\$858,293
11 Salary of superintendent	21,725	21,735
12 Salary of deputy superinten-dent	16,595	16,605
20 Current expenses	129,212	112,400
21 Boys and girls benefit fund	7,800	7,950
22 Food	119,188	130,000
23 Fuel	79,000	85,000
30 Equipment	12,355	11,540
50 Other personal services	51,958	52,207
62 Benefits	91,727	92,718
70 In-state travel	411	432
80 Out-of-state travel	380	380
90 Maintenance projects-own forces F	15,650	
Total	\$1,394,544	\$1,389,260

Estimated source of funds for

Custodial care*	6,000	6,000
05 Maintenance refunds	1,388,544	1,383,260

General Fund

Total	\$1,394,544	\$1,389,260
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*Such sums as may be required for the custody of certain inmates shall be transferred from the emergency fund upon approval by the governor and council.

Amendment adopted.

Ordered to third reading.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program. Ought to pass with amendment. Sen. Blaisdell for the Committee on Finance.

Sen. BLAISDELL: The amendment to House Bill 32 does four things. (1) The Outdoor Recreational Plann. PAU, is transferred from the DRED operating budget to the Executive Office, Office of Comprehensive Planning as a line item budget and the reason for it is for control purposes. (2) \$15,000 has been added over to the House Appropriation and of this \$7,500 comes from the general fund and \$75,000 is in federal matching funds. (3) The bill provides for \$50,000 for snow making and grooming for fiscal year 1977 and it comes as a charge against the park revenue. (4) It provides for a quarterly written report to the fiscal committee of the House and Senate recreation committee. I ask for your support.

Amendment to HB 32

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

increasing the appropriation for the bureau of outdoor recreation grant eligibility program and providing that the office of comprehensive planning shall do the planning required for eligibility under the bureau of outdoor recreation program, relative to the outdoor recreation planning program; and increasing the appropriation for snow making and snow grooming.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Bureau of Outdoor Recreation Appropriation. In addition to any other sums appropriated to the office of comprehensive planning, the sum of \$70,000 is hereby appropriated to the office of comprehensive planning for Fiscal Year 1977 to be expended as follows and shall not be transferred or expended for any other purpose.

Fiscal 1977

03 Executive Office

06 Office of Comprehensive
Planning:

02 Bureau of Outdoor Recreation

Planning:

10 Permanent personal services	\$14,865
20 Current expenses	5,000
30 Equipment	1,200
50 Other personal services	25,135
62 Benefits	4,000
70 In-state travel	600
80 Out-of-state travel	1,000
90 Other expenditures	18,200

Total	\$70,000
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Estimated Source of Funds for
Bureau of Outdoor Recreation
Planning:
00 Federal Funds
General fund

\$35,000
35,000

Total \$70,000

2 Decreasing the appropriation for the bureau of outdoor recreation grant eligibility program by \$40,000 in 1977. Amend 1975 Chapter 505, 1.03, 03, 02 by striking out the same and inserting in place thereof the following:

02 Recreation services:		
10 Permanent Personal services	\$65,367	\$66,762
20 Current expenses	6,725	7,250
62 Benefits	6,537	6,676
70 In-state travel	950	1,015
80 Out-of-state travel	400	400
90 Bureau of outdoor recreation grant eligibility program*	30,000	

*Within this appropriation \$25,000 shall be used to reimburse the office of comprehensive planning for services rendered.

Total	\$109,979	\$82,103
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Estimated source of funds for recreation services*		
00 Federal funds	15,000	
General fund	94,979	82,103

Total	109,979	82,103
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*The commissioner of resources and economic development shall apply to bureau of outdoor recreation for recovery of direct and indirect costs applicable to any bureau of outdoor recreation project. Any revenue received shall be recorded as unrestricted revenue.

3 Report to Legislative Committee. Commencing on the first day of the fourth month after the effective date of this section, the commissioner shall submit quarterly written reports to the resources, recreation and development committee of the house the recreation and development committee of the senate, and the fiscal committee of the general court concerning the activities and proceedings of the planning program.

4 Outdoor Recreation Planning Program. Amend RSA 12-A by inserting after section 17 the following new subdivision:

Outdoor Recreation Planning Program

12-A:18 Coordination of Program. The personnel administering the outdoor recreation planning program, under the direction of the commissioner of the department of resources and economic development, shall coordinate the planning program with federal, interstate, state, regional, county and local government agencies, conservation commissions and private organizations and individuals, including formal agreements and contracts as necessary, and, when possible, utilize data from these agencies, commissions, organizations and individuals for the purpose of providing supportive information in application for federal funds.

5 Increasing the Appropriation for Snow Making and Snow Grooming by \$50,000 for Fiscal 1977. Amend 1975, 505:1.03, 07, 01, 09 by striking out same and inserting in place thereof the following:

09 Recreation	2,330,000	2,450,000
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Amend 1975, 505:1.03, 07, 02, 92 by striking out same and inserting in place thereof the following:

92 Snow making and snow grooming	55,000	106,540
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6 Effective Date. This act shall take effect July 1, 1976.

Amendment adopted.

Sen. Monier moved the adoption of an amendment.

Sen. MONIER: I propose a floor amendment to amend section 3 of the bill as we have now just passed it with amendment, to remove that section and renumber sections 4, 5 and 6 respectively. If you would look at the same amendment from the committee that we just voted on, section 3 is the report to legislative committees. This problem of the BOR has been with us I don't know how long and both with Senator Trowbridge and may others I have tried to shepherd parts of it simply because of an interest in it and the fact that it affects everyone of us. The BOR funds go to the local areas for recreational purposes. I have no problem with the amendment to be frank with you; I have no problem with the funding; I have no problem with the control on it; I have no problem with the line item. I do however feel that we are setting something that I don't particularly pickup myself and I have got to oppose. It is this business that once we have said we are going to do this to an agency we now are saying to them they are going to have to report back to us or the legislative special committees and so forth and so on, for the express purpose of finding out whether they did it or not. I just feel this is a bad precedence and I know that in the past there has been a lot of money spent on travel up here for work sessions for various committees, particularly in the House and some in the Senate but not anywhere near that amount and I personally am against this kind of philosophy that they will report back to the legislature from any branch, I don't care what it is. If the judiciary asked us to report to them we would be up in arms. If the executive asked for us to report to them we would be up in arms.

I think that with the fiscal line on a budget you have the same controls you have on any other department and it ought to be enough. I am a co-sponsor of the House bill. There is a long history to it and I won't bore you but we had a Senate bill in here which was the same thing, they sent it to interim study committee, it never came out, all of a sudden the House shows up with a bill, I am asked on the last day to co-sponsor it. The Senate lost all control over it because it went to the House, I don't know how it got there out of interim study, we have never had a report on the Senate bill. I don't want to fight the issue but I just want to raise this issue and I personally would like to ask the Senate to revoke and take out section 3. If we have the proper line item budget controls we don't need the other and I don't feel like feeding some people to come up here on travel pay, to be very frank with you.

Sen. TROWBRIDGE: Again, I don't think this is a big issue either so I will just raise the issue in response to Senator Monier as to why Senate Finance Committee adopted section 3. BOR funding in this state is in jeopardy because we have not done the necessary planning that they need to give us 50% federal funds for all recreational things such as park improvements, Monadnock, we all have a stake in BOR funding, Mt. Washington, to name a few. The problem has been before that we have thought that we did the proper planning job so that we would be able to retain our BOR funding. Renewal comes up next March and if we don't have the funds right by next March then, at that point, we could loose a heck of a lot of what has already been budgeted into capital budget bills. There is a very good man in the Office of Comprehensive Planning who everybody likes a great deal, who is currently doing this work. In order to make it show in the budget and make sure that it is done, section 1 of the bill shows exactly that in the Office of Comprehensive Planning there is a section of someone who is suppose to do that work, however, we did not feel that we were able to take the risk of not having that person come down on quarterly basis and come to the people who are really interested in the recreation side of this state on the legislature and simply say here is where I am, because if he doesn't get there by March then we are in jeopardy so that was the reason for the amendment. It was to really make sure, just as the fiscal committee makes executive department heads come in for audit. Just like we ask people to come in and testify before our committees. I don't think it is an intrusion on the executive branch to see whether they are carrying out the mandate of the legislature

especially when so many dollars and so many projects are involved. This is the reason for section 3 of the bill and I really don't see that it is a big deal. I don't see why it has to be taken out.

Sen. MONIER: Senator would you admit with me that section 3 does not therefore affect fiscal accountability?

Sen. TROWBRIDGE: No, it does not affect the fiscal accountability. The fiscal accountability is in the budget. It is on the program side as to whether its getting done more than on the fiscal side.

Sen. MONIER: That is exactly my argument because the amendment has in it that the commissioner will report. The commissioner involved here is DRED and two years ago, and I think you and I discussed this personally as well as in front of the committee, that the problem was or has been, or at least supposedly has been, that there wasn't a planning section in DRED, move it to Comprehensive Planning, transfer the money, now you have gone as far and I agree with you, to transfer the authority, etc.; who you have reporting however, according to this back to these various committees, is not the person working on the program but rather the commissioner of DRED and I correct?

Sen. TROWBRIDGE: Yes, but the commissioner of DRED is responsible for the BOR program so he is the one who is going to have his neck in a noose next March if this planning thing isn't done right.

Sen. MONIER: Am I not correct, without section 3 the person that is fiscally in charge now with the budget expenditures and OCP could be asked to come before the fiscal committee any time and report on it?

Sen. TROWBRIDGE: Sure he could.

Sen. MONIER: Then the removal of this would not hinder what you are saying?

Sen. TROWBRIDGE: It's just that the House committees who came in and have been working long and hard and who have been pushing and there has been a lot of foot dragging around here, they have been pushing and the other people have been dragging, they say we want to make sure that this happens. The only way you make sure that it happens is to put it in the bill.

Amendment failed.

Ordered to third reading.

HB16, legalizing the regular town meeting in the towns of Rye, Lee, Exeter, Enfield, Alton and Madbury; legalizing several town meetings in the town of Woodstock; legalizing the special town meeting in Newmarket, legalizing a meeting of the Belknap county convention and authorizing the town of Carroll to borrow money to meet operating expenses. Ought to pass with amendments. Sen. Poulsen for the Committee on Executive Departments, Municipal and County Government.

Sen. POULSEN: The two amendments that the Senate Committee is offering, one has to do with the naming of the Hooksett Bridge to be legally named the Hooksett Memorial Bridge. This is prompted by the selectmen of the town and there is no reason why it shouldn't be officially named. The second amendment has to do with the town of Hampton in the same category as the town of Newington that was one section of the liquor law so that a license can be given to a restaurant that is in the town of Hampton that was operating illegally because the town had never adopted the liquor provisions. The town in the meantime has voted that they certainly didn't intend that, they intended to adopt them but hadn't done it. At town meeting they displayed they wanted to do it but in the meantime the owner of this restaurant would be grievously injured the whole season unless this procedure was followed which would evade the law for that period of time until the next town meeting. Those are the amendments. The bill itself is, you might say, omnibus of errors in town and county meetings that hadn't been properly warned one way or another. We looked up most of the reasonings and most of them are small things, 3 days notice instead of 5 and things like that. There is no real reason not to pass any of it. I couldn't find any hanky panky among it, it seemed all quite legal. We recommend the passage of the amendments and the bill.

Sen. BOSSIE: Mr. President I see the relevance of the proposed amendment with regards to the naming of the Hooksett Bridge but I would like to ask the Chair to rule whether the amendment proposed by the committee in regards to restaurant beverage licenses is germane to this bill in view of the precedence established last week with regards to other amendments proposed?

CHAIR: In response to the parliamentary inquiry from Senator Bossie as to the germanous, according to Rule 21 of the Senate the Chair rules that the amendments are germane since all the amendments deal with town matter.

Sen. S. SMITH: In this section of the amendment relative to licenses for restaurants, I noticed that the town of New Hampton is in here and it allows for liquor licenses for

restaurants. I was unaware of this problem. It is in my district and I would like to know if the selectmen have discussed this with the committee and what was the testimony in regards to it?

Sen. POULSEN: The selectmen may have testified to a House committee I don't know. In our own committee the testimony was that the town clerk had certified a vote of the town in favor of this. The town had a vocal voice vote and it is recorded as being unanimous of this step. It was apparently taken at last town meeting but wasn't on the agenda so it couldn't be acted on as an item of town business.

Sen. S. SMITH: There was testimony to this fact in the committee by who?

Sen. POULSEN: By Representative Marshall French.

Sen. MONIER: There is one restaurant involved in this and Representative French came before us and indicated that he had tried to reach you but it had just come to his attention. It dealt with this restaurant in the terms as Senator Poulsen said, the selectmen had approved something and we had to have this amendment in order to allow it. That's what it boils down to. At this particular time all of the committee questioned Representative French on this, he did bring in a letter from the town clerk, I believe it was, and the selectmen authorizing this and approving this.

Amendment to HB 16

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses and authorizing restaurant beverage licenses in New Hampton.

Amend the bill by striking out section 12 and inserting in place thereof the following:

12 Restaurant Beverage Licenses in New Hampton. Amend RSA 178:3-a as inserted by 1957, 47:1 as amended by striking out in lines 18 and 19 the words "town of Newington" and inserting in place thereof the following (towns of Newington and New Hampton) and by striking out in line 23 the words "town of Newington" and inserting in place thereof the following (towns of Newington and New Hampton) so that said section as amended shall read as follows:

178:3-a Licenses for Restaurants. The commission may issue a license to any first-class restaurant in any town, if such restaurant also holds a permit provided under RSA 181:4, which shall entitle the licensee to sell liquor by the glass and fortified wines by the bottle, if the cork is drawn, with meals at tables only in the restaurant; said liquor and/or fortified wines to be consumed with meals at tables only in the approved dining rooms of said restaurant. Minimum charge for said meals shall be not less than one dollar each. The determination of what is a first-class restaurant is to be within the discretion of the commission. Licenses shall be granted only to such restaurants as the commission at its discretion shall approve and then only to such restaurants as can show the commission on forms and under regulations prescribed by the commission that at least sixty per cent of the gross sales shall fall within the category of food. Annually thereafter or as may seem necessary the commission shall review each license and/or each application for renewal on the conditions stated in this section. No license shall be granted to any restaurant under the provisions of this section in any town or city that has voted to prohibit the sale of alcoholic beverages within its confines. Notwithstanding the fact that the towns of Newington and New Hampton has voted or votes in any referendum to prohibit the sale of liquor and beverages, a permit as provided in RSA 181:4 and a license to sell liquor by the glass and fortified wines by the bottle, if the cork is drawn, to bona fide customers with meals at tables only, may be issued to any first-class restaurant in said towns of Newington and New Hampton but only if the restaurant is open and does business at least ten months of every calendar year and said restaurant shall meet all other requirements of this section.

13 Effective Date. This act shall take effect upon its passage.

Amendment No. 1 adopted.

Sen. MONIER: I move the adoption of an amendment. It is the renaming of the Hooksett Memorial Bridge that was introduced by Senator Ferdinando. We had testimony from Legislative Services and another letter from Selectmen indicating that

they had already taken this action and that they wanted this for a particular dedication of the Hooksett Bridge at that time. As a result, with no opposition and after a check with Senator Ferdinando, the committee accepted this as part of House Bill 16.

Amendment to HB 16

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton and naming the state owned bridge in Hooksett, the Hooksett Memorial Bridge.

Amend section 13 of the bill by striking out same and inserting in place thereof the following:

13 Hooksett Memorial Bridge. Pursuant to RSA 4:43, the town of Hooksett is authorized to dedicate in the memory of the residents of Hooksett who gave their lives in service of their country and to rename the state owned bridge for vehicular traffic which spans the Merrimack River, located on Main street between routes 3A and U.S. route 3 in said town, the Hooksett Memorial Bridge.

14 Effective Date. This act shall take effect upon its passage.

Amendment No. 2 adopted.

Sen. POULSEN: The House itself amended this bill several times and the last amendment had to do with the town of Carroll in Senator Lamontagne's district. The town of Carroll contains Brenton Woods which is in an estate of bankruptcy so that the town has not been paid a large portion of their real estate tax, something like a third of the tax for two years. Their ability to borrow money year by year is jeopardized by this and this gives them the ability to borrow anticipation money on a five year term. It is a little bit unique but I think it is necessary for the town under these conditions.

Ordered to third reading.

SUSPENSION OF RULES

Sen. Brown moved that the rules of the Senate be so far suspended as to allow the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted and that they be passed at the present time.

Adopted, by requisite 2/3 vote.

Third reading and final passage

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and relative to the state share of the normal contribution for non state employee members of the N.H. Retirement System, the firemen's retirement system and the policemen's retirement system.

HB 44, extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance and control of expenditures and providing for the continuation of the Coho salmon program.

HB 7, defining the responsibility for the planning of sewerage projects in the Winnepesaukee river basin; defining project allocation under PJ 92-500 and making an appropriation for algae control in the surface waters of the state.

HB 10, making an appropriation to reimburse mental health facilities under the medicaid program.

HB 21, making an appropriation for the operating and capital expenses of the department of health and welfare.

HB 2, making supplemental appropriations to certain state agencies; amending the law relative to the use of revenue sharing funds and relative to agreements under the Trade Act of 1974.

HB 8, making a supplemental appropriation to the operating budget of the state

prison for riot related and other expenses and changing the operating budget of the New Hampshire youth development center.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program and providing that the office of comprehensive planning shall do the planning required for eligibility under the bureau of outdoor recreation program, relative to the outdoor recreation planning program; and increasing the appropriation for snow and making and snow grooming.

HB 16, legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton and naming the state owned bridge in Hooksett, the Hooksett Memorial Bridge.

RECESS

OUT OF RECESS

JOINT CONVENTION

For the purpose of hearing an address by John Warner, Executive Secretary of the American Revolutionary Bicentennial Commission.

Sen. S. Smith presiding.

SUSPENSION OF THE RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow the introduction of a bill.

Sen. JACOBSON: If you will take your sheet that says RSA 265, this is the current law as passed by Senate Bill 6 in this special session. You will notice in the fifth line it says "for which the applicant is liable for preceeding or current year". This has to do with the resident tax and the staggered registration. I found out the other day that notices have been sent out from the Department of Revenue Administration to town clerks and to tax collectors, that the persons who register their automobiles again in August will have to pay the current resident tax. I went back to check the statute and the statute said current or preceeding year, this is the way it has always been that you pay your preceeding year's tax but the word current had been put in. The question arouse whether or not it would be legal to require our citizens to pay their current tax, that is their current resident tax remembering that the \$10.00 tax does not require a penalty of interest until December 1, although in Chapter 80:1 the resident tax is payable on demand. Because of the confusion of the the present statute in regards to what the notice was that went out, I met with the Assistant Commissioner of Revenue, the Director of Taxes in Concord and with the Director of Motor Vehicles. I am introducing this legislation to see whether or not the legislature wants to have it so that the current tax wherever it is liable and applicable is to be paid before a person gets his fishing license or his automobile registration. If the legislature wants to do that then it will be in conformity with the letter that has gone out. The present statute is not in conformity and for that reason I have introduced the legislation. This has become complicated because of the staggered registration. Bare also in mind that it isn't until June 1 that the selectmen and the city officials have to have the list ready, the tax warrant for the resident taxes. It is somewhat a complicated question. Under the present situation we are going to be heading for trouble with people saying I paid my preceeding year that's what the statute says, why can't I register my car or why can't I get my fishing license.

Sen. ROCK: Senator I take it we are talking about the temporary five dollar head tax?

Sen. JACOBSON: We are talking about the ten dollar resident tax.

Sen. ROCK: It started out as a temporary five dollar head tax that we still have. Am I to understand from this that you are striking out the word current in your legislation and all they have to pay is the preceding year, is that what your intent is?

Sen. JACOBSON: We are striking out current and preceeding and that any tax for which they are liable is the change. "That he has paid all resident taxes for which he is liable or been lawfully relieved of such payment by reason of his exemption or abatement."

Sen. ROCK: If, in fact, I go in in August to register the car I would not then have to pay another resident tax as long as the one for the preceding year had been paid? believe at the present time you can have your current or preceding by means of the statute and whether or not we accept this legislation I think will tell whether the intention of the legislature was to mean the current or whether it was to mean preceding or current.

Sen. LAMONTAGNE: What happens when a person makes a move, say possibly 3 months before April 1st and goes into another area and is there around 60 days and hasn't enough time to become a resident, what happens in that case?

Sen. JACOBSON: I don't quite follow your question. The present law requires that he is liable for the resident tax in the city or town in which he is located after April 1.

Sen. LAMONTAGNE: But assuming the person turns around now and hasn't been 6 months in the area and therefore can't pay his resident tax there, can he take his prior receipts to get his registration?

Sen. JACOBSON: I don't know anything about the 6 month factor.

Sen. LAMONTAGNE: Doesn't it require 6 months before he can become a resident and he can pay his resident tax?

Sen. JACOBSON: No, the present statute really says on 1 day but the question of residency as far as resident taxes are concerned is as of April 1.

Sen. POULSEN: Senator are you going to vote for this yourself?

Sen. JACOBSON: I intended to vote for it on the basis that it would provide a certain kind of regularity and also would allow for the collection of taxes from those persons from whom it is very difficult to collect the resident tax as far as cities and towns. I speak now as a selectman.

Sen. ROCK: Question of the Chair. If this motion prevails, is it the intention of the Chair to assign this legislation for a hearing before a committee?

CHAIR: The chair would state that the chair anticipates that there would be a further motion to suspend the rules relative to hearing, advertising in the journal. However, if there is no such motion the Chair would assign the bill to committee.

Division requested by Sen. Jacobson.

Result: Yeas 15, Nays 3

Motion adopted by requisite 2/3 vote.

INTRODUCTION OF A SENATE BILL

First and second reading and referral

SB 61, relative to the payment of the residence tax in order to obtain an operator's license or register a motor vehicle under the staggered registration system. To Ways and Means and Administrative Affairs.

SUSPENSION OF THE RULES

Sen. Downing moved that the rules of the Senate be so far suspended as to dispense with the committee hearing and the notice of the report and that the bill be placed on second reading at the present time.

Sen. ROCK: I am still not clear on exactly what your legislation attempts to do. Could you go through it once more slowly for me?

Sen. JACOBSON: If this legislation were passed, this would allow the town clerk to ask of the residents whether or not they have paid their current resident tax. According to RSA 81, it is presently payable on demand. Under the present statute there is a question of whether it is preceding or current. In some instances it would be the preceding one such as in January, February and March, because the warrant for the current year has not been established. Let me give you an illustration. Suppose you move into the town this year on April 1 and your license is due on September 1, you have no preceding year so you would be liable for the current year. What they have done is say whichever one you can be liable for you will be liable for and that is what this statute says whether it is the current one or the preceding one except if you have been exempted.

Sen. ROCK: If I normally made it a practice to pay my resident tax on November 1 and I have paid the resident tax as of November 1, 1975 and I wouldn't anticipate paying it again until November 1, 1976 without penalty it would be within the deadlines and I wanted to register my car on July 1, am I then being forced by the current

interpretation of the statutes by Mr. Price and company to pay my resident tax four months in advance or five months in advance of when I normally pay it?

Sen. JACOBSON: That is the instructions that have gone out to the tax collectors and town clerks at the present time. I believe that that cannot be done under the current statute. In order to do it and the argument is that it will protect the cities and towns from the many many times the resident taxes are not paid. I can tell you in the Town of New London we have a list of about 78 who haven't paid their residence taxes, \$700, which we had plans for in the budget. This is an effort to make sure that many resident taxes are paid.

Sen. ROCK: Am I incorrect in interpreting this as a form of a pre-payment penalty that we are imposing on the people of the state? We are saying you will, you shall, pay your resident tax in advance of when you could normally pay it without penalty because of Mr. Price's interpretation?

Sen. JACOBSON: Mr. Price bases his interpretation on RSA 81 which says that all resident taxes are payable on demand. I grant you Senator that there isn't incongruity in this thing because even though RSA 81 says that they are payable on demand, RSA 76:12 says that there is no penalty or interest until December 1, but such is the case.

Sen. SAGGIOTES: In your previous remarks, if I understood you correctly, you stated that you spoke to whoever it was and you tried to explain what the legislative intent was and they seemed to be disagreeing with you. As I understand, this proposal that you have now is that what it does in fact, is agreeing with the interpretation of the previous legislation that we had passed so that this bill makes their interpretation legal, is that correct?

Sen. JACOBSON: What this bill would do is in fact make what they believe is the present bill and their instructions to town clerks and tax collectors congruent.

Sen. SAGGIOTES: Did I understand it correctly that you originally disagreed with their interpretation?

Sen. JACOBSON: I disagreed with the interpretation of their instructions with respect to the present statute. I believe that you can pay your preceding tax, the present tax for the preceding year and get your registration in the next year, that is the current year under the present law.

Sen. CLAVEAU: Am I right to assume that this would not apply to a corporation in which you register trucks or automobiles?

Sen. JACOBSON: I believe it only applies to residences of New Hampshire who register their cars or get their fishing licenses. I do not know the question with regard to commercial trucks.

Sen. CLAVEAU: How about incorporated companies that are doing business?

Sen. JACOBSON: I don't believe their is any resident tax applicable to a company, proprietorship or a partnership or a corporation. The resident tax is totally personal in nature.

Sen. SANBORN: Isn't the reason that this request or instruction letter is going out to the town clerks and so forth is based because we changed the registration law and made it the birthday thing and it actually comes into effect in August?

Sen. JACOBSON: That is right. It is because of the staggered registration that we have this particular problem.

Sen. SANBORN: After this, it would be assumed that a person from then on would just be following into a regular yearly pace and pay but once a year?

Sen. JACOBSON: It will only be the first time that you will actually be forced to pay it early. From that time on you will be paying it at the time you register your automobile for the most part.

Sen. POULSEN: Couldn't this have been the other way, to accept your originally interpretation of how the law should be so that it did apply to the preceding year's tax rather than the current or would you stand for an amendment that would do that at this time? In other words, are we not here taking the Price interpretation of the law rather than the Jacobson interpretation?

Sen. JACOBSON: We are taking the interpretation of the law as delineated by the Department of Revenue Administration on the recommendation of the Tax Collectors' Association which argued that if we do it the other way we will simply have the continuing problem of collecting resident taxes. I might also say that it is only in the first year, as Senator Sanborn pointed out, that you are going to get an early payment situation. From that point on you will then pay \$10.00 every year.

Sen. POULSEN: The initial breakup of the registration already adds a burden to people and wouldn't this add a second burden to the same people who are being forced to register ahead of their ordinary budget? In other words, don't we hit them twice?

Sen. JACOBSON: No, only this year we will hit them early, not twice. For example, those who are coming in to register in August would have to pay the \$10.00 now instead of before December 1 and not have a penalty or interest. It is only that time span and from that point on everybody in August can pay each August succeeding.

Sen. MONIER: Because we haven't had a chance to look at this I think that is why you are getting these questions. You have stated they will now be paying this year one time ahead of them and I think Senator Poulsen's point is well taken, why wouldn't this bill be better if we waived it this year and let them pick it up the next time. They would still be paying just one year rather than hitting them again the second time?

Sen. JACOBSON: The issue is this, that the Tax Collectors' Association feels that if we do it that way, then the towns and cities are going to lose thousands of dollars.

Sen. MONIER: That opens a second question. How are we going to lose thousands of dollars if this time, what you are saying here, we are just assessing them early. What is the difference if we assess them early or assess them late, we aren't going to lose any money?

Sen. JACOBSON: For example, people coming in in August, September, October, November and December, being the last month, these people who register their cars, a certain percentage of them disappear and never register their cars again, move to another town and never pay their residence tax for this year.

Sen. MONIER: That may be true but with all due respect, I don't see how that answers the question. What we are really saying and Senator Poulsen brought this up, is the same people that have the staggered registration and therefore have to pay January and in September are now going to have to pay this in January or prior to March and again in September. My only question is, why can't that be alleviated, if they have paid it one calendar year that is enough. The fact of this loss of thousands of dollars, I really think if I may be so bold to suggest, it just means that we aren't going to take in extra thousands of dollars. I don't see how we can lose anything.

Sen. JACOBSON: No, you are wrong on that. You will only pay one time in a calendar year and the losses come when the registrations are made and then the people move, disappear, die or any other number of things. Particularly the person who has no property, we lose that \$10.00 for each individual. I can show you the list of New London that we had to abate because the tax collector gets tired of carrying them.

CHAIR: Question is on the adoption of the motion offered by Senator Downing to suspend the rules as to dispense with hearing and advertising in the journal.

Motion adopted.

Sen. ROCK: I must tell the members of the Senate that I am quite uncomfortable with what I have heard here in the introduction of this Senate Bill. My discomfort comes not from the collection of what the legislature in its wisdom enacted as a temporary tax many years ago, but in the interpretation of a department head and in his interpretation, I feel, being unfair to a great number of our good, honest, taxpaying citizens. I cannot wholly disagree with the Senator from the seventh district, who has told us that there may be a minority of taxpayers who, unscrupulous as they are, would register the car and never pay their \$10.00 head tax. I must say that I see that as a distinct minority as verses the majority of good upstanding citizens in the state who do and are willing to pay this tax when it is due or when it is payable without penalty which would be prior to December 1. I guess to some of us we may think well, the \$10.00 whether you pay it in August or whether you pay it in November isn't going to make a lot of difference. I think that is the wrong attitude. I think these people have paid a tax that is certainly unusual if nothing else over these years and they budget and plan for payments for automobile registration. Many of them find when its time for registration to come it is also time for insurance and now we are throwing an extra added burden on them months ahead of time. I would have much preferred to see two things happen. The first would be to sit down with any department head who wasn't sure of legislative intent and nose to nose with that department head inform him of what the legislative intent was. I think it is time that some of the prerogatives that we, the legislators, have been willing to abrogate to department heads who run this State House the way they see fit the minute we walk out the door has to stop and they have to know we are around and they have to know when they want legislative intent they come to the legislature and find out and not begin to write it the way they want it written. I would have preferred to see this legislation come to give the break to the taxpayer rather than to make it easier for the revenue administrator to wheel his hatchet and his club and I don't like the legislation.

Sen. JACOBSON: I agree one hundred percent with what Senator Rock has said. My only interest is in the town officials who are under the gun of the revenue administration

and until something happens, they find themselves in trouble and I can't quote the precise statute but it is there, I've checked it out. They are under their control in administration. I introduced the legislation to make sure what the legislative intent was and I did exactly what Senator Rock said, I called them up and told them they were wrong. Then Mr. West came back, the Tax Collectors' Association, and asked me if I would introduce this legislation and it is really on behalf of the municipalities that this legislation comes. I agree again with Senator Rock that there is a tendency and it is particularly true in the Department of Revenue Administration, to appropriate powers which are not legislatively there.

Ordered to third reading.

Sen. Poulsen, Rock and Lamontagne are recorded as being opposed to sending SB 61 to third reading.

COMMITTEE REPORTS

HB 50, providing that town meeting day shall be the second Tuesday in March. Ought to pass. Sen. Poulsen for the Committee on Executive Departments, Municipal and County Government.

Sen. POULSEN: This bill makes the town meeting day in New Hampshire be the second Tuesday in March which apparently is about as soon as you can reasonably do it and go through the budget process and all the other functions a town must do. The House amended their own bill to except the presidential years in which case it is the first Tuesday before not any New England state which was in the law, but before any other state. So, presumably, if Arkansas had it in January we would have it the first Tuesday before January. It is, in any case, the first Tuesday for any other state except the other years we have it the second Tuesday in March.

Sen. SANBORN: Does this make all town meetings have to be the second Tuesday in March?

Sen. POULSEN: For three consecutive years and then the fourth year would be the first Tuesday before any other state and presumably would have to be adjourned to a second town meeting to transact the rest of the business.

Sen. SANBORN: Doesn't the existing law allow a town that has the fiscal year of—

Sen. POULSEN: I think that is right I think it comes under a separate statute. The others are an exception.

Sen. SANBORN: If this says all towns, how will it affect those?

Sen. POULSEN: I don't think any more than the original law which undoubtedly is that all towns have their town meeting day on the first Tuesday in March.

Sen. JACOBSON: I had a deep concern over this bill, that portion of it which says on the fourth year there shall be a town meeting on the presidential primary day. Watching the presidential primary politics, that means that it is possible to have it the first Tuesday in January. Now there is no way that municipal officials could ever get their books in order by that time. In deed, I have talked to municipal officials and if we are going to have it, for example as we had it last year, the last Tuesday in February, that will create great difficulties. I would much prefer that we have the town meeting on the second Tuesday in March which was the original legislation and let it be as it has been for many years at town meetings. If the people want to play the presidential politicals and have presidential primaries and shift it according to what some other legislature is doing let them do it, because we may be back in 1975 after a while. That is back in the odd-numbered years is what I meant, if we continue this kind of program. It is a very difficult program for local municipal officials to get their books in order and not know. It may be just a few weeks when the town meeting is going to be. There is a certain amount of time which is necessary to get the petition articles into the warrant that require 35 days. There are times to process a step, of getting the warrant out, there are hosts of events that need to take place and if you play a ball game and have a shifting town meeting every fourth year you will have chaos. I would hope that maybe we could amend it back to its original form and have it on the second Tuesday in March and let the presidential primary go in any direction it wants to.

Sen. POULSEN: Actually, I was much opposed to this legislation four years ago. Do you see any reason why a town meeting couldn't be held and then continued say three weeks hence or four weeks hence to do the ordinary town business and use the early town meeting simply as a primary indicator?

Sen. JACOBSON: The problem is that you have got to have all your material ready by the first meeting day. For example, you have to have your booklet printed and in the

hands of the residence at least one week before that meeting. There are some very serious problems that come by establishing a floating town meeting day every four years.

Sen. LAMONTAGNE: This year the city of Berlin had their election early due to the presidential primary and we see no problems at all. We have gone through our city election and at the same time the books were taken care of because of the early election. I don't see any problem at all. We are the only city in New Hampshire that had its election on the second Tuesday in March.

Sen. ROCK: Who won that one?

Sen. LAMONTAGNE: 68% four man race.

Sen. JACOBSON: You held it on the second Tuesday in March?

Sen. LAMONTAGNE: This year we held it the same time as the primary and I think it was February 26.

Sen. JACOBSON: If you held it in January would you have any problems?

Sen. LAMONTAGNE: It would make no problems either.

Sen. Sanborn moved that HB 50 be laid on the ttable.

Motion adopted.

HB 33, guaranteeing freedom of speech, full right to criticism and disclosure and disclosure for all state employees. Ought to pass.

Sen. Jacobson for the Committee on Judiciary.

Sen. JACOBSON: What this bill does in essence is this, is that it allows each state employee the right of freedom of speech and criticism and disclosure without interference from any department head or supervisor. Anyone who does interfere is guilty of a misdemeanor. That is what the bill does.

Sen. GARDNER: Does this include department heads also or does it exclude them?

Sen. JACOBSON: A department head is an employee, so the department head could also speak.

Sen. McLAUGHLIN: If a department wanted to have a bill come through the House or Senate to their liking of some desire, does this mean that the whole department could be over here testifying on behalf of that department and the state of New Hampshire paying them for their coming over here to testify?

Sen. JACOBSON: I presume that that is in the realm of possibility. This really relates to speaking out on public issues outside of testifying before the state legislature although I presume that that would be included in it. Hopefully not all employees would be over here.

Sen. McLAUGHLIN: Isn't it saying that a department head cannot restrict his people to testify or be heard at any time so therefore if they want to take an afternoon off they could all come over to a hearing room and testify on behalf of a bill that would be very complimentary to their division or department and be lobbying for that bill and in the meantime produce no work for the state?

Sen. JACOBSON: I believe that the state employees have their regular responsibilities so that a person who left his job might be in jeopardy for some other reason for leaving his job.

Sen. McLAUGHLIN: It doesn't say so in this bill. It says any employee may voluntarily or be requested to appear before any legislative committee. They could volunteer for any bill and take off all the time they desire.

Sen. JACOBSON: That part is not in the bill as presently written that you speak of. The bill has been rewritten and you will see on page 121 that that section of the bill is taken out.

Sen. LAMONTAGNE: What effect would this have if this bill was amended to take the penalties out?

Sen. JACOBSON: If the penalties were taken out this bill would have no meaning.

Sen. BERGERON: I assume this amended version of the bill also takes into consideration administrators, department heads, deputies, this type of thing?

Sen. JACOBSON: Yes it does. A person employed by the state in any capacity.

Sen. BERGERON: Is it logical to assume that in the event an employee of a particular agency was involved in departmental policy didn't like the outcome he is now free to travel throughout the state or anywhere else he pleases speaking against departmental policy?

Sen. JACOBSON: I believe this bill would allow him to speak against departmental policy.

Sen. BERGERON: He can go in and be involved in setting policy, rules and regulations or anything else and if he doesn't like what happens then he can go anywhere around the state he wants and publicly chastise his own department?

Sen. JACOBSON: He can speak his opinions on the public issues as he sees them.

Sen. BROWN: This is pretty much the same question as Senator Bergeron's. If a department head sets policy and some of his state employees do not, like it, not that I am trying to take away freedom of speech from anybody, but in this particular case he goes mouthing off that he doesn't like it, isn't that going to create chaos within this department? There will be no uniform function. You will have different opinions. They don't like it so they will shoot off their mouths.

Sen. JACOBSON: I think you have to draw a distinction between insubordination and criticism of policy. If the individual is asked to carry out a policy and refuses to carry out the policy to which he is legally responsible as an employee of the state, that is a question of insubordination. If that employee is criticising the policy that has been established, this bill allows him to publicly discuss it.

Sen. BROWN: He publicly announces it, once again, doesn't that create chaos within the department? You have dissension within a department therefore you loose its correct functioning, its efficiency?

Sen. JACOBSON: I think in any matter when you give people fuller freedom, you also take fuller risk.

Sen. BROWN: Your interpretation against policy verses the other which you just explained, is this stated in the bill that that will be done?

Sen. JACOBSON: This bill only deals with the right to publicly speak out on public issues and policies for every state employee. I would presume that the rules and regulations of the Personnel Commission require that if a department head asks an employee to carry out a specific responsibility and it is a reasonable order, that he would have to carry it out and if he failed to do it he would be in insubordination. I am not a state employee but that is the policy that is carried on at Colby College. If I am given a reasonable order I have to carry it out. If I say go jump in the lake I'm not going to carry it out. I'm in the position of being insubordinate. That is distinct from saying I do not like a particular policy in the college.

Sen. SANBORN: What you are saying is interesting but what I might say is insubordination, the employee might say that I am suppressing his freedom of expression and have me into court under 98-E:1, what is going to happen? Who is going to decide whether its insubordination or against his freedom to expression?

Sen. JACOBSON: Of course that is a question that has been before the courts many times and I remember Justice Wendall Holmes saying one time that, yes we have freedom of speech but there are always limits to freedom of speech. For example, he said you cannot run into a theater and yell fire when there is no fire and say I did that under freedom of speech. I believe that probably if that kind of situation came up it would be something for the courts to decide.

Sen. BOSSIE: At the hearing was there any opposition to this and would you apprise us as to what the vote in the House was on this?

Sen. JACOBSON: To the first question there was no opposition at the Judiciary hearing. I do not know what the vote in the House was but I know it was overwhelming, 268 to 33. I have been told.

Sen. MONIER: I rise in opposition to this bill and the committee report. I do it for several reasons and I will state ahead of time I am not going to answer any questions. The reason is very simple. I am stating my own feelings, my own judgment and I don't feel like justifying it. Quite frankly, I am disturbed by several things this bill has done in its history and I am quite disturbed by what it does now. Sen. Bossie's question of Senator Jacobson about what was the vote in the House disturbs me as well, because I suppose this is supposed to tell us that this is a very unpopular thing to be against. Whether I am popular or not I am still against it and I will be recorded as such. Quite frankly what we are doing is taking a select group and saying to them that you have some special consideration over what a private citizen has under our constitutional guarantee. I don't think that is necessary. We have a constitutional guarantee in our federal constitution and I believe in our state constitution also, for freedom of speech as a citizen. There is a distinct difference between having freedom of speech as a citizen and having freedom of speech as a taxpayer paid employee. Quite frankly, I can think of several Pandora's Boxes that this type of an issue opens to our consideration and it will come back to haunt us. Let me give one or two as examples. I may be wrong and this is why I have said once before to Sen. Bradley, at least I will be consistently wrong. I have always had the feeling, and it is a matter of my own personal judgement, that a classified employee or an appointment or anybody that would be covered by this bill has a distinct obligation and that obligation is to implement policy. The executive branch in its particular functions under the constitution, and the legislative branch in its particular

functions under the constitution establishes policies and in some cases we have found that the judiciary establishes policy. It is not the function and I say it loud and clear, of a classified, unclassified, appointed or otherwise paid by state tax funds or federal to establish policy. With this type of a recognition which I think in my opinion has been based on, historically, on a demogogy and on political trash, to be very blunt about it, and used as a political expediency for a big blurb which I might add the news media assisted in very grandly so they could have more headlines. The citizens of this state have just as much right under the federal constitution to speak as a citizen as anyone else and they don't need any special law to encourage them to do it or to assist them to do it. They have the court to back up that right. What troubles me is that as a special group and we have said they are by naming them as such, we are encouraging for example all kinds of interest to use this particular open door and to bring to bare upon us, on the executive, and therefore in influence of the people of this state who are paying their salary, for any particular issue that they might wish to use. We have had some nice discussions here about the fine line between insubordination and having the right of free speech. Quite frankly, I don't think that is the issue. I think the basic issue is that instead of saying that we are guaranteed freedom of speech and where this does not occur, there are judicial processes by which you redress it. We are saying there is a special group of people in this state, they happen to be people who are working for the state, who need some special kind of protection. If that is true, then our state system obviously stands at fault with the constitution. Since that has not yet been shown in the courts, I think we are not only premature, I think we are establishing something which is going to come back to haunt us. Another possible case, I think most of us know historically why this occurred. Primarily because of several arguments that have gone on between the executive, the executive council. The resolutions that have been passed and have been played up in the press and the demagoguery of some of those that wish to make a political issue out of it. I think you should think very carefully about the basic philosophy of what a state employee, regardless of whether classified or other, those paid by state funds, what the responsibilities are in their positions. If the argument is that within their position any disagreement with policy would be insubordination then this is unnecessary. If the argument on the other hand is because they work in the state system they are being denied their constitutional rights this isn't going to correct it. So I repeat my statement, it is a political election year demagoguery piece of trash and it is going to open everyone of us up to the possibility and I use one example that was whispered in my ear not too long ago, that if we are sitting in a committee and some special interest group has been able to induce for example a whole group of state workers to show up at our hearing a hundred deep and we want to cut them off, are you now in violation of what this says of freedom of speech or their right to express their opinion. It raises some real serious questions in my mind. I think the question in the first place is retoric. It is a guarantee already, you don't need to supplement it. Secondly, there is a judicial process if it is denied. You don't need to supplement that. So the question has to remain in your mind what are you doing? What you are really doing is saying that there is some special group of people, primarily in Concord, about 6,000 strong throughout the state, in which you want to give them a special privilege or let them understand that they have a special protection. My question is and my reason for voting against it is why?

Sen. BERGERON: I am curious Senator as to what prompted the necessity of this bill? Why was it considered necessary to file such a bill? I am just curious as to some of the background.

Sen. JACOBSON: I cannot speak to that question fully because it was a House Bill introduced and received by the House so the rational for its original introduction I do not have except by the same way you have, the newspapers. I understood it had to do with the certain policy set down by Governor and Council on these matters. I cannot speak to that question directly. At the testimony of the Senate Judiciary Committee, the testimony all related to providing every state employee with full freedom of speech and as I recall there was no direct reference to any specific incident in the testimony. Sen. Bossie can probably confirm that because he was at the hearing himself. As far as I know there was no discussion as it was. It was to the question of whether employees have the right, the freedom of speech and the question was raised as Senator Monier raised, don't they have it in the constitution? The answer to that question was that yes, it is there but like all constitutional construction, they need the building blocks of statutory legislation and that goes to practically every constitutional question. You take for example all of the civil rights legislation that has been based on the thirteenth, fourteenth and fifteenth amendment of the constitution. Our tremendous income tax

legislation has all been built on the sixteenth amendment to the constitution. This is merely a statutory piece of legislation that is built on the original guarantees of freedom of speech.

Sen. S. SMITH: I think I understand fully what the bill is all about and I think I can agree with you as far as full freedom of speech and full criticism. At the hearing were there any questions directed to the phrase "disclosure by any state employee." What I have in mind is this, would this violate the confidentiality of any departments that require confidentiality such as the Attorney General's department where employees may speak out or disclose fully matters that are pending before that office.

Sen. BOSSIE: Basically with regards to your example, the confidentiality is protected now because of the lawyer-client privilege. The client being the State of New Hampshire. Anyone being employed as an attorney with the Attorney General's office is bound to secrecy because he is an attorney, he is a client to the State of New Hampshire.

Sen. R. SMITH: You eluded to the attorney-client relationship. Does this attorney-client relationship in this particular instance extend to the other classified employees in the office?

Sen. BOSSIE: I doubt if it would apply to the secretaries. Certainly if anyone divulged any information it certainly would be grounds for dismissal.

Sen. TROWBRIDGE: Would it be fair to say that of course you have the constitutional freedom to speak and any state employee does, but the difference is, do you loose your job if you exercise that freedom of speech? Isn't that really the crux?

Sen. JACOBSON: That is certainly the crux of this particular piece of legislation. It is to make sure that in terms of his employment, he has the opportunity for free speech. I am sure that there are many instances in public and private businesses where you could speak but you might loose your job.

Sen. PRESTON: I have listened carefully. The discussion this morning brings me back to the tenure of Governor King. When I was operating my own business I did serve under an appointment by him for a particular state department for a short term. Funds were being considered in a joint committee of conference to aid and assist the seacoast in enclosure of the Portsmouth Naval Shipyard. They were not appropriated the second year and it was a very necessary program down there. I Publicly criticised the then Senate President for their lack in concern and interest in the economic impact this enclosure would have in not funding it for a small amount of money. Shortly thereafter, I received a call and was told that I was a classified state employee and that I would not criticise any legislative leadership, express any public opinions regarding state matter. Shortly thereafter I came up and met with the superiors of my department and handed in my resignation because I didn't think that was freedom of speech. As I reflect recently of what has occurred in Washington and I think it applies in this state I think moreso, I think state employees and federal employees may live in an atmosphere of intimidation if they do speak up. I am not afraid or concerned of what state employees might have to say because I think any such behavior that has been brought out here as examples would certainly come under insubordination. I don't expect it to be abused and the more I reflect it on my own personal incidence I would certainly support this bill.

Sen. Bergeron moved that HB 33 be referred to the Judiciary Committee for Interim Study.

Sen. BERGERON: I have listened to the pros and cons of the debate here this afternoon and truthfully I think both sides have good reasoning for their positions. It has gotten to the point were you are inbetween and I am not sure as where to go based on the information and I would like to see a little more work done on this. It is an important subject and I would like to see more work done on it.

Sen. SANBORN: I would like to support Senator Bergeron in his motion. I would gather from what information was gathered here this afternoon that there hasn't been too much actual investigation as to what might be going on here. When I first came up here in the 73 session, the press and certain other people were making quite a to do about an investigation on certain supposedly secure files by our present governor. I happened to be working with the security and privacy relative to certain police records and so forth on a committee appointed by the governor and the way I read this bill here it would appear to me that some clerk over in the State Police office could very easily spill quite a lot of information that is suppose to be under security and privacy in the police files. Perhaps there should be a study to see how far this does go because there are certain security and privacy acts that have been enacted that this may abridge.

CHAIR: Question is on the motion offered by Sen. Bergeron to refer HB 33 to interim study by the Senate Judiciary Committee.

Roll call requested by Sen. Blaisdell and seconded by Sen. Monier.

The following Senators voted yea: Sens. Lamontagne, Poulsen, Stephen Smith, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Ferdinando, Sanborn, Provost, and Brown.

The following Senators voted nay: Sens. Jacobson, Blaisdell, Trowbridge, Claveau, Roger Smith, Bossie, Fennelly, Downing, Preston and Foley.

Result: Yeas 12, Nays 10.

Motion adopted.

Sen. Monier moved reconsideration of sending HB 33 to Interim Study.

Roll call requested by Sen. Blaisdell and seconded by Sen. Fennelly.

The following Senators voted yea: Sens. Stephen Smith, Jacobson, Blaisdell, Claveau, Roger Smith, Bossie, Fennelly, Downing, Preston and Foley.

The following Senators voted nay: Sens. Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Ferdinando, Sanborn, Provost, and Brown.

Result: Yeas 10, Nays 12.

Reconsideration failed.

HB 48, relative to changing the rate of the tobacco sale discount. Ought to pass. Sen. Trowbridge for the Committee on Finance.

Sen. TROWBRIDGE: In the last session we cut the tobacco tax discount 3-1/2 percent down to 2 percent. We did this on the knowledge that because of the greatly increased trade that would come in from the Massachusetts' tobacco tax being 5 cents higher than the N.H. tax, that the wholesalers did not need a tax break. However, testimony was brought on HB 48 that some of the smaller wholesalers are being hurt by the fact that they do not have as big a competitive wholesale discount as the Vermont wholesalers. So the House more or less cut it in half and put in the figures that up to a certain figure a small wholesaler will get 2.75 percent discount and then it goes down to 2 percent at a million dollars of tax revenue. A million dollars of tax revenue means three million dollars in sales, no small sale. It was worked out with the industry that the smaller volume wholesaler would go up from 2 percent to 2.75 percent but as he scales down past \$500,000 sales and a million sales he goes back down to the 2 percent which is now there. There has been no great squak from the industry since we adopted this bill in the House form. It is \$125,000 of state tax money that we will be giving up but we picked up \$450,000 last time around so we are still well ahead.

Adopted.

Ordered to third reading.

TAKEN FROM THE TABLE

Sen. Rock moved that SB 31 be taken from the table.

Motion adopted.

SB 31, relative to limited credits for retailers, vendors and subjobbers of tobacco products and increasing the license fees for wholesalers and subjobbers and retailers of tobacco products.

Sen. Rock moved that SB 31 be sent to the Joint Committees of Ways and Means and Administrative Affairs and Energy and Consumer Affairs for interim study.

Sen. ROCK: The reason that I am referring it to interim study is that I do think there was some valid testimony that gave us reason to believe that there was need to take another look at this bill. I think part of the problem has now been solved with the bill that just passed. HB 48 did give relief to especially the small tobacco wholesaler who is a good partner in business with the State of New Hampshire and I would just like to see SB 31, since it is too late to pass it over to the House, give it another look at interim study.

Motion adopted.

COMMITTEE REPORTS

HB 22, relating to the medical-dental staff of New Hampshire hospital. Ought to pass. Sen. Sanborn for the Joint Committees of Finance and Public Institutions.

Sen. SANBORN: If you will take your journals you can see what the House did relative to HB 22. In the earlier journal they amended this bill to put in a great deal of information about differential pay and so forth for finished with the bill they had eliminated the amendment put on by the House and also that part that had to do with

pay differentials and the only thing that the bill does now is it includes a dentist along with, in the law it says now a senior physician psychiatrist, and it adds the word dentist and it puts the dentist at the State Hospital on equal rating with the senior physician and psychiatrist.

Adopted.

Ordered to third reading.

HB 47, providing for the payment of wages by electronic fund transfer. Ought to pass. Sen. Preston for the Committee on Banks and Insurance.

Sen. PRESTON: This bill would allow companies to deposit salaries directly into the accounts of their employees with their o.k. Many of the large industries are tied into computer now and the present law provides that payment of wages must be in lawful money of the United States and must have checks drawn from a particular bank. This would put the money in personal accounts on pay days and it would be up to the option of the employee.

Adopted.

Ordered to third reading.

HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 57, establishing the New Hampshire incentive program combining grants and loans and making appropriations therefor.

See HOUSE JOURNAL for May 18th.

Sen. Rock moved concurrence with the House amendment.

Sen. ROCK: If you will look on page 4 of the House Calendar for May 18 you will see the amendment. To give you a little history on it, under the suspension of the rules this Senate very graciously allowed it to be introduced. Following approval of this measure it went to the House, where it was heard in joint hearings by the House Education Committee and the House Appropriations Committee. The Education and Appropriation Committees of the House both concur that the legislation ought to pass. The amendment to this allows for the promulgation of rules and regulations and it is a very simple amendment, whatever the Post Secondary Education Commission establishes as these rules they would be promulgated and distributed. The amendment is agreeable to all of the members of the committees and urge its adoption.

Sen. S. SMITH: Is it my understanding that this amendment states that the rules and regulations shall be distributed to the legislature, and to governor and council but it does not say that the governor and council or the legislature must approve these rules, is that correct?

Sen. ROCK: That is absolutely correct and I will add, on page 12, the monies will be distributed under the subdivision when they establish the rules and regulations, they must file the rules and regulations with the Fiscal Committee of the General Court and governor and council. The amendment gives governor and council and the Fiscal Committee of the legislature no authority to change those rules or to cause them to be enforced in any way. I think statutorily we would have had the same thing happen, however this amendment was suggested and it does seem reasonable to agree to it.

Sen. MONIER: I strongly support the action that Senator Rock has indicated and as I stated before, I think this is a step in the right direction and we should support this bill.

CHAIR: Question is on the motion by Senator Rock that the Senate do concur with the House amendment on **SB 57**.

Motion adopted.

COMMITTEE REPORTS

HB 43, to add statutory construction provisions to the RSA chapter on the New Hampshire housing finance agency. Ought to pass. Sen. Preston for the Committee on Executive Departments, Municipal and County Government.

Sen. PRESTON: The senators will recall the last session we passed the legislation pertaining to the New Hampshire Housing Finance Agency. This bill allows for three changes: (1) recommended by the bond counsel in regards to the finance agency, is not subject to supervision of any other state agency; (2) it would allow the payment from 7-1/2 to 9-1/2 percent interest on the bond issue and (3) it would reduce the income requirement for those allowed to purchase homes. Essentially what this bill will do is to free up millions of dollars in the state from the New Hampshire banks because they

would be more encouraged by the 9-1/2 percent interest than the 7-1/2 percent. There was no opposition to this bill and everyone concurred at the hearing.

Adopted.

Ordered to third reading.

HCR 2, instructing the secretary of state to notify town and city clerks not to use literacy tests in registering voters. Ought to pass. Sen. Preston for the Committee on Executive Departments, Municipal and County Government.

Sen. PRESTON: The Supreme Court nullified the literacy tests as a requisite for voter registration. This merely allows for notification of the election officials in cities and towns of this state. They will receive a letter from the Secretary of State's office informing them of this decision.

Sen. SANBORN: Why do we need this? I understand the House has already passed it.

Sen. PRESTON: It is indicated that they shall be so notified so we are just following up by doing it with this resolution.

Sen. SANBORN: Aren't the various town and cities officials who care for the ballots notified of the changes in the law anyway?

Sen. PRESTON: This in effect calls upon the Attorney General to prepare a letter to see that it is carried out so that there will be no reason not to be aware of it.

Adopted.

HB 11, relative to the administrative procedures act. Refer to Senate Committee on Executive Departments, Municipal and County Government for Interim Study. Sen. Monier for the Committee on Executive Departments, Municipal and County Government.

Sen. MONIER: The committee was unanimous on this. HB 11 when it was first initiated had one thing and it was completely amended in the House. They spent much time on it. We received it and had one afternoon with about two hours on it and at that particular point there were a lot of questions raised not so much with what the bill says but with what it does. We wanted more time on it and we felt the smart thing to do to the quote the House was that we had not received all of the reports and we felt that it needed to go to interim study. In this particular case there were many questions raised and no department heads had been notified about it and since that time the committee went out of its way to ask for some other advice on it and it was felt it would be best to put it into interim study because it was not an emergency situation and can be handled the beginning of next session.

Adopted.

HB 36, to provide for one additional alternate for the superior court review division. Ought to pass. Sen. Bossie for the Committee on Judiciary.

Sen. BOSSIE: This bill was introduced into the House at the request of the Chief of the Superior Court. He requested that an additional alternate be placed on this review board. Basically, the board now consists of three individuals and two alternates. This would make it three alternates. Apparently the reason for this is that a number of the judges that are on this sentence review committee cannot attend at the same time because of their pressing business throughout the ten counties throughout the state. It is a very simple thing, it just adds one person as an alternate.

Adopted.

Ordered to third reading.

HB 39, making consistent the criminal code provisions dealing with presentence credit for confinement. Ought to pass.

Sen. Bossie for the Committee on Judiciary.

Sen. BOSSIE: As the bill indicates, it is really housekeeping. It is to make consistent two sections of the RSA. At the present time if an individual is arrested for a felony he may be given credit for the time he has served in prison or in jail prior to the time that he is convicted. Normally, the court will give credit to him for any time he has spent in jail and this just makes it consistent with the criminal code.

Adopted.

Ordered to third reading.

HB 42, to prohibit employment of illegal aliens and to correct a citation in the penalty provision of RSA 275-A. Ought to pass. Sen. Lamontagne for the Committee on Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: This bill prohibits an employer from employing an alien who the employer knows or has a reason to know he is not entitled to lawful employment in the United States. If the employment has an adverse affect on the employment opportunity of a person residing in the United States that may legally work in the

United States it is a violation and guilty of a misdemeanor. This bill also corrects a citation in the penalty of the provision of RSA 275-A. The director for the immigration service said they were interested in this bill because N.H. has about 2,500 illegal aliens. There are many states seeking legislation similar to what is proposed here; Massachusetts, Rhode Island, New York and others. This bill would place the burden on the state rather than on the immigration service and this bill would protect the rights of our citizens and protect the employment of the citizens. This would stop the visitors from taking jobs from our citizens. Now there is no law in our state. This bill would not affect any woodcutters and it would not affect any of the apple growers in the southern part of the state. The committee urges its adoption.

Sen. S. Smith moved the adoption of an amendment.

Sen. S. SMITH: This amendment was written today after a phone call to me and to Senator Foley yesterday from the Attorney General. It allows any person who is a legal alien, who is a lawful resident of the United States, to hold and acquire licenses from the various boards and commissions which we have in our state. All of the boards and commissions which we have presently in the state in the statute have a requirement that every person who is to receive a license must be a citizen of the United States. The U.S. Supreme Court has knocked this law down in individual commissions. The Attorney General is concerned that he is going to spend many many hours and much time defending these statutes which it is absolutely unconstitutional and they are going to be knocked down one at a time. This act would remedy the situation by saying that legal, lawful, residents, aliens, in the United States may apply, and under other conditions shall be accepted to receive such license. I hope the Senate will help the workload of the Attorney General's Office and to comply with U.S. Supreme Court decisions and go along with the adoption of this amendment.

Sen. POULSEN: My question is on bonded men?

Sen. S. SMITH: I know nothing about bonded men. I don't think under these conditions this would apply. Basically because all of these people are professional people of one type or another. I am not sure what you mean by bonded men. These are people who come in as I understand it who are apply pickers, woodcutters, this type. I don't think this would particularly apply due to the fact that I don't think any of these people would be applying for licenses such chiropractors, doctors, lawyers or any of the other type.

Sen. LAMONTAGNE: On the committee I had asked that question myself to the immigration service and they had said that they would not interfere with the bonded men that would come from Canada and either cut wood or the apple pickers.

Amendment to HB 42

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to prohibit employment of illegal aliens, to correct a citation in the penalty provision of RSA 275-A and to remove licensing and employment restrictions on legal aliens.

Amend the bill by striking out section 3 and inserting in place therethereof the following:

3 Licensing and Employment of Aliens. Amend RSA 332-A by inserting after section 1 of the following new section:

332-A:2 Licensing and Employment of Aliens. No provision of RSA Title XXX and no other provision of law requiring that a licensee, or any employee of a licensee, be a citizen of the United States as a condition of licensing to engage in any profession or occupation shall be applied to deny an alien lawfully resident in the United States such license or employment.

4 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted.

Ordered to third reading.

TAKEN FROM THE TABLE

Sen. Sanborn moved that HB 50 be taken from the table.

CHAIR: The question is that HB 50 is on second reading and open to amendment.

Sen. SANBORN: Discussing this with Legislative Services, the amended version that came from the House is the one the Senate is now observing. My good friend Senator Poulsen made a slight miscalculation when he explained the bill this morning. It does not change town meeting it puts town meeting on the second Tuesday of March. It allows the primary to float to whatever time they want to. It does not change town meeting every four years to some other floating date. Town meeting from now on, on the basis of this bill, will be the second Tuesday of March only of every year.

HB 50, providing that town meeting day shall be the second Tuesday in March.

Adopted.

Ordered to third reading.

Sen. Downing moved that Senate adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills ordered to third reading be read a third time by this resolution, and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, May 19, at 11:00 a.m.

Adopted.

LATE SESSION

Third reading and final passage

SB 61, relative to the payment of the residence tax in order to obtain an operator's license or register a motor vehicle under the staggered registration system.

HB 48, relative to changing the rate of the tobacco sale discount.

HB22, relating to the medical-dental staff of New Hampshire hospital.

HB 47, providing for the payment of wages by electronic fund transfer.

HB 43, to add statutory construction provisions to the RSA chapter on the New Hampshire housing finance agency.

HB 36, to provide for one additional alternate for the superior court review division.

HB 39, making consistent the criminal code provisions dealing with pre-sentence credit for confinement.

HB 42, to prohibit employment of illegal aliens, to correct a citation in the penalty provision of RSA 275-A and to remove licensing and employment restrictions on legal aliens.

HB 50, providing that town meeting day shall be the second Tuesday in March.

Adopted.

Sen. Provost moved that the Senate adjourn until 11:00, May 19th.

Adopted.

Wednesday, 19 May 1976

The Senate met at 11:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Lord, teach us this day and every day the stillness not of inertia but the stillness of awareness and renewal. When our nerves grow taunt and our spirits tense, help us to hear thy voice above the lesser beings. Make us who serve thee in this Senate and the peoples of this land, become a nation under God, in service to all mankind. In Thy Holy Name, Amen.

The Pledge of Allegiance was led by Sen. Saggiotes.

ENROLLED BILLS REPORT

SB 52, to eliminate literacy tests for voters.

SB 54, to give the superior court injunctive power over certain motor carrier activities.

SB 33, upgrading professional staff requirements and certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefore.

SB 10, repealing section 10-a of the Berlin city charter relative to absentee voting in the annual city elections; providing for the adoption of RSA 60:31-39 relative to absentee voting in city elections and repealing the 5-day requirement for correction of the checklist in Berlin.

SB 11, redefining the term "master electrician" as used in RSA 319-C and providing a credit for renewal of certain licenses.

SB 13, relative to the confidentiality of dental peer review committee proceedings.

SB 27, making a supplemental appropriation to the bank commission, increasing the appropriation for the public defender system in Merrimack county, making a supplemental appropriation to the barbers' board and making a supplemental appropriation for fiscal 1976 for the indigent defendant program.

SB 45, to increase the maximum interest payable on bonds issued by a housing authority.

Sen. Lamontagne for the Committee.

Adopted.

HOUSE MESSAGES

HOUSE ACCEDES TO COMMITTEE OF CONFERENCE

SB 50, relative to property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes.

The Speaker appointed Representatives Benton, Connolly, Cournoyer and Paradise.

HOUSE CONCURRENCE IN SENATE BILLS

SB 52, to eliminate literacy tests for voters.

SB 54, to give the superior court injunctive power over certain motor carrier activities.

HOUSE NONCONCURRENCE IN SENATE BILLS

SB 55, relative to the payment of school building aid money to the Sanborn and Timberlane regional school districts and the Wakefield school district. Referred to Interim Study.

SB 53, relative to workmen's compensation coverage for domestic employees. Referred to Interim Study.

SB 51, relative to the liability of a husband and wife for payment of the other spouse's resident tax. Referred to Interim Study.

SB 26, relative to a driver alcohol retraining program and relating to the restoration of driving privileges upon a finding of not guilty of driving under the influence of intoxicating liquors or controlled drugs. Referred to Interim Study.

SB 39, requiring credit card companies to notify credit card holders whenever their records are disclosed to any federal or investigatory agency under court order or subpoena. Referred to Interim Study.

SB 49, relative to the operation of the print shop in the office of the commissioner of resources and economic development. Referred to Interim Study.

SB 59, relative to the authority of the state board of education to remove or to authorize the employment of superintendents, assistant superintendents, teacher consultants and business administrators. Referred to Interim Study.

ENROLLED BILLS AMENDMENTS

SB 40, amending a contributory pension system for employees of the city of Manchester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: The first amendment inserts the article "the" which was

omitted by mistake. The second amendment corrects an internal reference in a bill section which was not corrected when sections of the bill were renumbered.

Enrolled Bills Amendment to SB 40

Amend 1973, 218:1, XII as inserted by section 3 of the bill by striking out lines 12 and 13 and inserting in place thereof the following:
vice unless the employee contributes the normal pension contribution for that period of absence within not more than 2 years. Time spent as a member of any of

Amend section 20 of the bill by striking out line 2 and inserting in place thereof the following:

provisions of 1973, 218:10, V as amended by section 18 of this act, shall be
Amendment adopted.

SB 9, increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: This amendment corrects a grammatical error in the bill.

Enrolled Bills Amendment to SB 9

Amend RSA 175:10, I as inserted by section 1 of the bill by striking out line 3 and inserting in place thereof the following:

icals, television and radio broadcasting, sports films and travelogs. All adver-
Amendment adopted.

SB 43, revising the economic poisons law. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: This amendment is necessary to conform the title to the substance of the bill.

Enrolled Bills Amendment to Senate Bill 43

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

revising the economic poisons law and permitting the application of mosquito larvae control compounds under certain conditions.

.....

Amendment adopted.

SB 18, relative to the access rights of survivors of a safety deposit box. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: This amendment corrects a typographical error.

Enrolled Bills Amendment to Senate Bill 18

Amend RSA 86:78 as inserted by section 3 of the bill by striking out line 8 and inserting in place thereof the following:

failure to comply with RSA 86:72, 86:73 and 86:76 involving the delivery or
Amendment adopted.

SB 24, amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to New Hampshire upon discharge from military service. Ought to pass. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: The first change is necessary to conform the title to the substance of the bill. The second change removes a clause relating to an alternative condition which was removed when the bill was amended.

Enrolled Bills Amendment to SB 24

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

relative to eligibility requirements for the Vietnam veterans bonus.

Amend 1975, 478:1 as inserted by section 1 of the bill by striking out lines 8 and 9 and inserting in place thereof the following:

entered such active military service as a bona fide resident of New Hampshire shall be entitled to the benefits of this act.

Amendment adopted.

FURTHER HOUSE MESSAGES

HOUSE REQUESTS CONCURRENCE IN AMENDMENTS

SB 35, relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities.

See House Journal for May 18th.

Sen. Foley moved concurrence.

Sen. FOLEY: The House just wanted to make sure that the patios would be in accordance in the way they are run by the hotels and motels. In other words, being more specific and that is the change.

Adopted.

SB 42, relative to the dissemination of hard-core pornographic materials.

See House Journal for May 12th.

Sen. Foley moved nonconcurrence and setup a committee of conference.

Sen. FOLEY: They have changed the bill drastically and I would like a committee of conference to discuss it.

Adopted.

The Chair appointed Senators Bradley, Jacobson and Foley.

HOUSE REQUESTS CONCURRENCE
IN CONCURRENT RESOLUTION NO. 4

First reading, second reading and referral

HCR No. 4, establishing procedures for committees of conference. To Rules and Resolutions.

HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SJR 1, establishing a special committee to study tax reform at all levels of government.

See House Journal of May 18th.

Sen. Blaisdell moved nonconcurrence and setup a committee of conference.

Sen. BLAISDELL: I am asking for this committee of conference because there have been a couple of things brought to my attention in changes and I want to be sure that some of these things get back into the bill.

Sen. ROCK: Senator, could you just give us briefing what the changes are that are of concern to you?

Sen. BLAISDELL: For one thing, some of the retired people are upset because the Committee on Retired Persons are not mentioned in this particular piece of legislation. What we are doing is putting one person from one organization and it is not covering the whole group. They have one person that represents the whole group and they want to see if he can be put on the resolution. I just want to talk about it. I realize that I might be putting my bill in jeopardy but I want to be sure they are well represented on it.

Adopted.

The Chair appointed Senators Blaisdell, Sanborn and Preston.

COMMITTEE REPORTS

HB 6, improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for the Committee on Finance.

Sen. TROWBRIDGE: House Bill 6 is really what you would call the employee benefit bill. It is in place of the possibility of a pay raise, cash pay raise, for employees. The amendment is really very technical. In there we have changed the language of the House Bill to show that the plan being offered to the employees, Blue Cross/Blue Shield Plan, has to be as good or better than the Blue Cross/Blue Shield Plan D. Before the language said it had to be better than what it is now and you had no real assurance that the standards we are talking about of Blue Cross/Blue Shield Plan D would be followed. I think this has been advertised to the state employees as the kind of thing that would be in lieu of a pay raise so we thought we ought to refer to it. Secondly, the appropriation has been changed a little bit because we found that on the University side the House had double counted and had given the University less than they need to implement this bill. It wasn't very much, it was really only \$91,000. The effective date is still in here as taking effect August 27th. The state employees wanted very much for this to take effect July 1 but I think Art Fowler really convinced me that to change every pay record and every deduction and everything else when they are finishing up the closing entries of the books in June, to have every payroll manifest changed at that time was just a physical impossibility for his staff. He does promise however that this will be in effect August 27. So, the amendment really is not, I don't think, controversial. The final figure on the cost of this bill is \$2,623,000 of general fund. There is also \$730,000 of highway, \$54,000 of fish and game, \$437,000 of federal funds and special funds of \$125,000. What this does for a married employee is very very good, married with dependents. Instead of the present plan where the state only covers the employee himself, it pays the cost of the employees Blue Cross/Blue Shield, now it will, under Plan D which is broader coverage, which I will come to in a minute, pick up the cost of his dependents, everybody in his family if he is on a family plan. To an employee in the family group that is the equivalent of paying \$437.00 extra that he would have to pay if he were to have a family plan of this type. That goes out without social security, no deduction, no tax. It is the equivalent of after tax income or pre-tax income of somewhere around \$550 or \$575.00 depending on the tax rate of the employee. There is no question that the employees are getting a much better plan of coverage of up to \$1,800 for surgical procedures; it gives up to a million dollars of life-time major medical where it is now \$13,000. It is a much better program. The only real difficulty you will have is what happens to a person who is single and is a state employee or a University employee. There is only one answer. He is getting paid for a much better plan. Either way he now has plan D rather than plan B and I think some of the insurance experts in this area well know that a single person can get just as sick as a family person. His coverage is vastly increased. He being single will not have to pay any Blue Cross/Blue Shield and he doesn't have the financial burden of a family or dependents but that is about all I can say. In the University, we were offered an amendment and you will be interested in this, the University saw fit last year to go ahead and institute Plan C+, not D but so close to D that University employees could afford it. It is a good plan. They went ahead and allocated their dollars into insurance. Now, they come back and they ask well can't we in lieu of this, can we not give more or different benefits to our single employees, such as retirement. The committee was under heavy pressure from the University to allow them to allocate the dollars either to insurance or to other benefit programs, not through salary raises but just benefit. For years we have been leap frogged in this legislature by the teachers coming in and getting one thing and then the firemen and policemen and everybody else come in the next year and then the next year the policemen will come in and the teachers follow. If we were to allow the University and say o.k., now I am going to give in lieu of Plan D, increased retirement or someother benefit plan, we would be setting ourselves up for the next year for the state employees. They would say look the University people have this and we would be in our circle again. I have taken the position and the committee has taken the position, that we are going to do this across the board and at this point everybody who works in

the University system or in the state government will all have the same insurance plan. You can talk about other benefits another time. I respect what they are trying to say but in a way we just have to keep these things even or we always get turned around. The state employees did offer an amendment which I didn't mention which has to do with the definition of what is a permanent state employee and that has been changed, and Art Fowler agreed to it. Other than that the bill is very much as it came from the House. We feel that this is a better way than just giving \$260.00 which was the other pay bill, the other \$5.00 a week, that the state employees in general, 80 percent of them, will have a much better program and are getting a much better monetary benefit than they would out of the \$260.00. There are the 20 percent who are not going to be as satisfied and I think we just have to know that when we consider this bill.

Sen. ROCK: Senator, could I pose a hypothetical question to you—John Jones works in the Highway Department and he is now going to get, if I understand your proposal correctly, instead of the state paying for his portion and his making up the difference, he is going to get a family plan that will take care of his spouse and dependents in lieu of a pay raise by this bill?

Sen. TROWBRIDGE: Yes, fully funded by the state.

Sen. ROCK: Mary Smith works in the Highway Department and she is also married. Her husband works for a trucking company. She is married, she is getting an insurance plan paid for by the state for herself. What will her position be as a wage earner now under the equal opportunity laws when you say we are going to pay for the family of John Jones but Mary Smith is already covered by somebody else?

Sen. TROWBRIDGE: She will have the option and that has been figured into the calculations here. Of the people that we see as singles in the plan, a great many are not true singles. They have just a situation as Mary Smith where each of the spouses are in a different plan. It is anticipated that her husband will come in under the state plan. That has been calculated into how many will trip over and come into the plan. She will have the same benefits as the other person for that family.

Sen. ROCK: We aren't going to get any surprises if somebody challenges it is because we have anticipated the challenge and we are going to give her full family coverage where she is now only getting single?

Sen. TROWBRIDGE: Exactly. They have done a survey as to who is married and who isn't, what the likelihood is of trip overs and what the likelihood is not and the best estimate we have is the 2 million 6. That really is quite liberal in that we figured most people would.

Sen. ROCK: This might not be the time to ask this question, but since we are getting in the money bills and we are discussing spending money here, I have heard a good number of stories about where we stand with the legislation already enacted, with the legislation that is pending before us today and one side of the coin is that we don't have the money and the other side is that we do have the money, before we start voting on these could you give us a synopsis in your interpretation as to where we stand financially?

Sen. TROWBRIDGE: I will not only give you a synopsis of my interpretation but the Joint Senate Finance House Appropriations synopsis. I thought you would never ask. As of right now, passed both houses, presumably passing, a million, five hundred, seventy-seven thousand dollars in bills has been passed. On May 4 or 5 we had a joint hearing on the revenue estimates. You probably heard a lot about the business profits tax, which is really the only particularly controversial part of the revenue estimates. We ought to remember last time we anticipated \$29,400,000 to come in this year in the business profits tax. We then estimated for '77, \$30,500,000 of revenue estimates. This is a total of \$59,000,000 to \$60,000,000 over the biennium of business profits tax revenue. When Mr. Price appeared before our committee he acknowledged that of the \$29,000,000 we had estimated, he only had \$22,500,000 in hand as of this date. We therefore, along with the governor, revised down the estimate of revenue for fiscal '76. We revised it down by \$3,900,000 or \$4,000,000 basically, so that we revised the estimate to \$25,500,000 which should be in by the end of this year. As of now, we have \$22,700,000 in hand. On June 1 we have the reporting period for the entire retail establishment of this state. Retailers normally cutoff January 31 and their reporting period comes in June 1 and June 15. We have all of that reporting still to come. If you noticed in the paper today Sears, Roebucks net was up something like 75 percent. Sen. Blaisdell and others who are in the retail business are saying yes in deed, the profits of retailers in this year are substantially higher than anyone estimated, even in our estimate, than the year before. There is a very great probability that we will get the \$25,500,000 this year. However, the hedge factor here is that we did not increase our

revenue estimates for fiscal '77 even though all the testimony is, across the board, that on inflation alone, in terms of dollars, you will make more than that and it doesn't take into consideration the fact that the prospects of corporate profits are anticipated to be up 35 percent over what we estimated last time. What I really want you to think about is the fact that we have budgeted \$56,000,000 from that source over the biennium down from \$60,000,000 in these revenue estimates. What we don't make up perhaps on the first year we should more than make up on the second year and that the staff, the House Appropriations Committee and the Senate Finance Committee are all convinced that we will get in \$56,000,000 over the biennium. Year by year you can fluctuate. You can fluctuate just by a payment not being made one year ago into the next one. If you read Mr. Price's testimony, he said I don't know what I am going to get this year because I have only started opening the mail on May 1. He doesn't know what returns he has in and he doesn't know whether he has the big returns in or the small returns in. He had been asked to make a sample so that we could look at some companies such as Sanders Associates or some other, so that we could look and see and know how sample companies were doing such as '74 verses '75. He did not do the sample. It was a very inadequate presentation of a tax revenue picture. I don't blame Mr. Price completely because the way we have this thing setup everybody can wait until May 15, they know that they can file and then change later which they do especially when they have more tax to pay. Corporate taxpayers pay what they can and then wait for someone to catch them. I think it was significant that only \$900,000 was asked back as reimbursement for over taxpayments for the prior year. You can look at a glass and somebody will say it is 50% full and then someone will say its 50 percent empty. You can look at this thing either way. They made a big deal out of the fact that we gave back \$900,000 in overpayment. Obviously, the first person who is going to get their claim in are the persons who have overpaid and want their refund. There is an awful lot of mystery in the business profits tax collection. It is very cumbersome; it is not accurate and it usually works out in the end and the next reporting period which is November can still apply back to this year. The judgment of the committee was sure you can show that the dollars aren't there in hand on May 5th, not all of them, but they aren't expected to be and actually the dollar receipts are well ahead of the year before just dollar for dollar. We understood and Mr. Price agreed, that you could go either way on this. It's a judgment call but we haven't been that far off on revenue estimates on the business profits tax. The other hidden factor I mentioned before is inflation and if you have a \$24,000,000 base which we have now anyhow and we are adding to it this year the 7 percent increase because we changed the law on the business profits tax not allowing them to deduct their own tax so that is another \$3,000,000 on 24. Plus you have the foreign corporate dividends, foreign dividends, tax which is suppose to bring in a \$1,800,000 so that brings you up to about \$30,000,000 as your base before inflation and before the upsurge in the economy. So for us to be estimating \$30,500,000 in the second year of the biennium is really like saying everything stood still but it hasn't. I think we will collect substantially more in the second year of the biennium than \$30,500,000 which will give a hedge against anything wrong in the first year. When you take the other increases that we made and decreases, and I would like to mention the decreases. We decreased the beer tax estimated by \$278,000 each year. We increased board and care because of all these deals we have been doing with the federal government for the hospital and we have been getting welfare repayment and that is right from Arthur Fowler's mouth. We decreased liquor \$1,350,000 in the first year and \$992,000 in the second year because they are running into price wars. We decreased the racing, harness racing, by \$200,000 and we decreased the tobacco tax by \$125,000 on the basis of that change in the statute which we did yesterday on the discounts. We take decreases, we take increases, obviously the biggest increase was the greyhound because they brought in \$9,400,000 this year and our estimate had only been \$7,700,000. They know they are going to make \$9,000,000 this year and probably a good deal more than that so we have an increase. I don't think there has been any real jumping around on the revenue estimates. It is pretty much in hand. If that is true and we come out with \$6,950,000 as the projected surplus, project surplus that we would have at the end of the biennium if we didn't do anything in special session, we have got to add to that \$6,950,000 some other items. You have got to add in the fact that SB 26 will probably not be passed and so that has a revenue affect. You add on \$349,000; you add on \$818,000 from SB 33; extra revenue at the Laconia State School which is projected already; that brings you up to \$8,068,000 available if we didn't do anything at the session. We have in the hopper already \$1,500,000 of bills that we have passed. It leaves us with \$6,500,000 basically for the bills that we are doing now. Out of that here

you have the \$2,600,000 for House Bill 6. If we pass every bill that we are going to bring before the floor from now on, we would still be left with 1.6 million of surplus at the end of the biennium on our own books, projected surplus. So, if the business profits tax thing is off it has got to be off by 1.6 million before we get down to ground 0. This is why we feel there are enough hedge factors (1) the fact that we haven't taken any more than \$56,000,000 in the business profits tax over the biennium, we have been conservative there and (2) the fact that even if you count them all up there is still 1.6 million projected at the end of the cycle. I don't have any difficulty in saying that we can pass these bills or not pass them, not on the basis that there is no money. One thing to remember, to show how I think the revenue estimates are by and large pretty low, historically low, that when I made this presentation to you and the end of the '75 regular session, we were projecting a surplus of \$300,000 if the school aid bill had passed. It got vetoed so you had to add on \$400,000, so really \$700,000 is what we were talking about as being the budget surplus at the end of the biennium when we left here in the regular session. In between what happened, the insurance people came in \$2,095,000 more than they expected; Frank Whalan walks in and says of course I forgot, we have higher premiums, a higher premium tax; the dog racing people came in with \$2,000,000 more than we expected. We haven't been historically over estimating revenue. Like a fool you say there is no more for a special session, you come back and there is \$6,000,000. Then overnight someone panics, I think, on the business profits tax money, in a hurry they made a panic decision, and says \$8,000,000 is gone. Well that simply wasn't true and there is no way you can uphold it. Here we are back with just about the \$6,500,000 that we were talking about when we started the special session, it can be documented all the way, it doesn't all come from one place it comes from lots of bits and pieces. For instance, Art Fowler's other revenue, just bits and pieces, is up \$555,000 by his own estimations. Those are the things we haven't been hearing. I think the department heads give us a pretty good hedge all the way along. They don't want to be under revenue. We know that and that is a hedge in itself. We push them but we don't push them too hard. Does that answer your question Senator Rock.

Sen. ROCK: Excellently.

Sen. MONIE: Would you agree then that the State of New Hampshire is in pretty good fiscal shape?

Sen. TROWBRIDGE: Yes.

Sen. MONIER: We will have a surplus regardless of the fact that we are voting money bills for which we weren't called in?

Sen. TROWBRIDGE: I think it will. If I thought we were coming as close as we came last time and having the problem of collection of the business profits tax, not really the allocation but the collection, then I would be less certain about what I said before. When you have a hedge of a million six, that's a lot of money.

Sen. MONIER: My question is still the same. We are in good fiscal shape?

Sen. TROWBRIDGE: Yes, for what we are doing we are in good fiscal shape.

CHAIR: The question is on the amendment as offered by the committee.

Amendment to HB 6

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and certain university system employees and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Increase of State's Payment for Group Hospital and Medical Insurance. Amend RSA 101-A:6 (supp) as inserted by 1963, 327:1 as amended by striking out said section and inserting in place thereof the following:

101-A:6 Group Hospitalization, Hospital Medical Care, Surgical Care and Other Medical and Surgical Benefits. The state shall pay the full premium for each state employee and permanent temporary or permanent seasonal employee as defined in RSA 98-A:3 including spouse and minor, fully dependent children, if any, and each retired employee or retired employee's beneficiary, only if an option was taken at the time of retirement and the employee is not now living, toward group hospitalization,

hospital medical care, surgical care and other medical benefits plan, or a group plan offering benefits as good or better than the "Blue Cross/Blue Shield Plan D", if such plan is accepted in place of the present state plan within the limits of the funds appropriated at each biennial session and providing any change in plan or vendor is approved by the fiscal committee of the general court prior to its adoption. Funds appropriated for this purpose shall not be transferred or used for any other purpose.

2 Appropriation. There is hereby appropriated for the fiscal year ending June 30, 1977 the following sums: \$1,923,256 from the general funds of the state; \$730,766 from highway funds; \$54,487 from fish and game funds; \$487,178 from federal funds; \$125,000 from self-sustaining funds. The comptroller may allocate sums between these named accounts for the purposes of section 1. The governor is authorized to draw his warrant for said sums.

3 University System Employees' Group Hospitalization, Hospital Medical Care, Surgical Care and Other Medical and Surgical Benefits. There is hereby appropriated for fiscal year ending June 30, 1977 the sum of \$700,526. The sum hereby appropriated shall be disbursed by the board of trustees of the university system to pay the total premium for each employee, except auxiliary enterprise personnel, including dependent coverage, and for each such employee who is retired or such retired employee's beneficiary only if an option was taken at the time of retirement and the employee is not now living, toward group hospitalization, hospital medical care, surgical care and other medical benefits plan or a group plan offering benefits as good or better than the "Blue Cross/Blue Shield Plan D". Funds appropriated for this purpose shall not be transferred or used for any other purpose.

4 Effective Date. This act shall take effect on August 27, 1976.

Amendment adopted.

Ordered to third reading.

HB 46, increasing the salary of the director of state police and making an appropriation therefor. Ought to pass with amendment. Sen. Blaisdell for the Committee on Finance.

Sen. BLAISDELL: I am sure you know that HB 46 provides for a salary increase for the Director of the State Police. This was reported out of the Senate Finance Committee as ought to pass as amended. The salary of the State Police Director at the present time is \$17,552 to \$19,713. Under the bill it would make it \$22,245. The committee amendment provides for the establishment of a joint legislative committee to study the inequities that exist in the unclassified employee salary range. We have put a lot of time and effort into this. We know there are inequities but we feel this is the way to handle it. The twelve member committee would have three senators from the Finance Committee, three senators from the Senate Committee on Executive Departments, Municipal and County Government, three representatives from the House Appropriations and three representatives from the House Executive, Departments, and Administration. The Senate and House members would certainly be appointed by the Senate President and the Speaker of the House respectively. The committee findings shall be reported back to the Senate President and the Speaker of the House on or before January 5, 1977. Basically that is what it is and I will be very glad to answer any questions.

Sen. MONIER: I see now we are going to have a legislative study committee of personnel salary schedules. Whatever happened to the A. D. Little Study that we paid the grant sum for on this same subject?

Sen. BLAISDELL: I guess you answered your own question. Nothing has really been done. We feel that this is the way to go. We know there are inequities. Everybody in this room can tell you one or two. But again, this is the way we feel it should go, go to study and come back in the next regular session of the legislature and do something about it.

Amendment to HB 46

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

increasing the salary of the director of state police and making an appropriation therefor; and establishing a joint legislative committee to study the inequities in the salary ranges of unclassified state employees.

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Joint Legislative Study Committee. There is hereby established a joint legislative committee to study the inequities that exist in the unclassified employee salary range. Said committee shall consist of 12 members appointed as follows: 3 senators from the senate finance committee and 3 senators from the senate committee on executive departments, municipal and county governments appointed by the president of the senate, 3 representatives of the house appropriations committee and 3 representatives from the house committee on executive departments and administration appointed by the speaker of the house. The committee shall elect one of its members as chairman. The committee shall have the power and authority to require from the several departments, agencies and officials of the state, such data, information and assistance as it may deem necessary or desirable for the purpose of this study. The committee shall report its findings and recommendations to the president of the senate and speaker of the house on or before January 5, 1977.

4 Effective Date. This act shall take effect June 18, 1976.

Amendment adopted.

Sen. Lamontagne moved the adoption of an amendment.

Sen. LAMONTAGNE: I move an amendment to increase the salary of the Commissioner of Safety, the Commissioner of Insurance, Director of Motor Vehicle, Director of State Police and making an appropriation thereof to increase the salaries of \$3,280 on each of these.

Sen. SANBORN: I rise in opposition to the amendment even though my good friend Loggie brings this in. This is one reason why the Committee on Finance put in the amendment they did on the bill. In the past these unclassified employees have gotten to some member of the Senate, some member of the House, to take care of themselves and them only. Accordingly, that is why we have the mishmash and problems that we have in the present unclassified pay scale. Low and behold if we pass this amendment of Loggie's, we are going to find other commissioners and deputy commissioners and so forth, they find that say we raise the Insurance Commissioner to this level, they feel that they who have more people more department funds and so forth, they feel they are entitled to a raise and so they would be getting hold of one of the senators to get their increase. It is a continual go around. This is why we proposed the amendment that this committee be established and the committee will have the powers, as you note in the original amendment, the power and authority to require several departments in the state to come in and testify to their committee and to establish a decent, equitable pay scale for all the nonclassified employees. On that basis I have to oppose Senator Lamontagne's amendment.

Sen. ROCK: Senator in looking over your amendment I realize we don't have a Commissioner of Health and Welfare, had you considered that post for a raise also?

Sen. PROVOST: Do you feel this is an emergency at 22 or 23 thousand dollars when everyone else gets five thousand?

Sen. LAMONTAGNE: Let me say this, I consider this to be just as much of an emergency as it is for the Director of State Police. Seeing that the matter is being considered this is the purpose of the amendment to have these people included.

Sen. R. SMITH: Isn't it a fact that the individual who is now Insurance Commissioner left his job willingly that paid him \$23,315 to \$28,350 to go back to the Insurance Commissioner's job that paid \$19,713 to \$25,960?

Sen. LAMONTAGNE: The reason the Insurance Commissioner has been added is because it was a request of some senators who wanted him to be included.

Sen. TROWBRIDGE: I think there is one thing that was not brought out by the previous speakers. When we were considering the bill on saying how do you single out Colonel Doyon by himself, one assailant reason for our doing so is that he had the guts to get someone to file a bill and expose the problem to the House and bring it in public through the legislative process. At the House hearing on HB 46 not one of the persons mentioned here in Senator Lamontagne's amendment showed up to bring this problem to bare. There was no testimony from any other department head as the bill went through the House. Then at the Senate hearing, Commissioner Whalan came in with a letter and more or less with this same kind of amendment saying that Commissioner Flynn and everybody else in the Safety Department would get an equivalent raise. We questioned why they didn't go to the House and there was no answer. What we are saying here is this business of waiting around and trying to tag senators. Gus Gilman was trying to do it and a few others, is wrong. If there is a problem and there is a vehicle, namely this bill, that people should come, expose it, say it out loud and go through the legislative process. We felt that the one inequity that we had here on the State Police salary which has been covered up, we ought to adopt Senator Sanborn's amendment

for the committee so that we can require these department heads to come into that committee, tell them what it is so that we don't have everybody playing off each other. That is why we did what we did.

CHAIR: Question is on the adoption of the amendment offered by Sen. Lamontagne:

Division called by Sen. Lamontagne.

Result: Yeas 5, Nays 16.

Amendment failed.

Roll call requested by Sen. R. Smith and seconded by Sen. Blaisdell on motion of Sen. Lamontagne.

The following senators voted yea: Sens. Lamontagne, Saggiotes, Monier, Ferdinando, Brown, and Fennelly.

The following senators voted nay: Sens. Poulsen, Stephen W. Smith, Bergeron, Blaisdell, Trowbridge, Rock, McLaughlin, Claveau, Roger A. Smith, Sanborn, Provost, Bossie, Downing, Preston and Foley.

Result: Yeas 6, Nays 15.

Amendment failed.

Ordered to third reading..

Sen. Bossie presiding.

HB 24, making an appropriation for capital improvements. Ought to pass with amendment. Sen. Sanborn for the Joint Committee on Finance and Capital Budget.

Sen. SANBORN: The basic appropriation when the bill was received by the Senate, this is for the second phase and the construction of the Health and Welfare Building, was \$10,850,000. The only amendment that the Senate is offering on this bill changes the amount of the appropriation. The total amount is not changed but it does remove \$800,000 from the \$10,850,000 and this is set aside as a separate line item, indicating the equipment required for the building. Public Works testified that this was their anticipated amount. They feel that a bid with a 3 percent contingency will be in the \$10,050,00 for the building. I know that there has been some controversy on this building via the press and some reports from the House relative to a bunker, I believe the papers said. This bunker has been eliminated and is not in the plans or in the money allowed for this building. This was removed by the House Appropriations. The only part of that that may be still here is a portion of the foundation wall at this time will be beefed up for the area that might be, in the future, a bunker, whenever the federal government can get together with the state government and provide the necessary funds then perhaps the bunker can go ahead. The wall can be beefed up at this particular time with no extra cost. Also, at the last regular session, when we were discussing this Public Works Building, why the price has increased, we decided that CDP would be added to this building. That brings up about \$2,000,000 more with a total of \$10,000,000. If anyone in the Senate is familiar with where the state laboratory is building, off Loudon Road, this portion of the building will be two wings added to that present building, in the form of a Y. The two arms of the Y being the new building. In between them, leaving a small court, will be the CDP building which will be a basement and one story at this time but built on the idea that two more floors can be added to it as space requires. The space for the Health and Welfare building will contain 10,000 square feet which would be sufficient room for 1,000 people. The architect's idea is to build it on the open type of building where portable dividers can be used to separate the various offices and working spaces within the room. If future changes in the Welfare Department needs changes in this space, these petitions may be moved around very easily. This has been a problem and it started back around 1971 in the legislature when it was testified that Health and Welfare needed a separate building and at that time they had gone into phase 1, we are now ready for phase 2. With the business climate as it is today we feel that this is the time to proceed. If we pass this bill all the working plans are completed and they expect that they would be able to go out for bids the first of July and have construction start perhaps sometime before the year is out. You ought to understand that we are not going to make any money on this by space rent that we will give up here in the City of Concord. The debt services on this will run for twenty years somewhere in the vicinity of \$850.00 to \$900,000 per year for twenty years. The operating cost, that is the maintenance of the building, plowing snow, this building will have a joint parking lot with the new Motor Vehicle Building that is being constructed out there. The total operation cost will be in excess of \$700,000 a year.

Sen. PRESTON: Yesterday we voted a substantial amount of funds for the State Hospital, Christian Science Building and the Laconia State School and just a personal

opinion or matter of priorities, do you think this money could better be spent for more capital improvements at the State Hospital or the Laconia State School, State Prison or would you place this with a higher priority?

Sen. SANBORN: I would say that since we have passed the other bill already and we have this bill before us, this is the time to do something with the business climate the way that it is. We feel that we can get the most for our money right now than to wait later when building costs are going to go up. I would say we need both bills.

Sen. PRESTON: Then the answer to my question that this money could not better be spent for capital improvements at the State Hospital, Laconia School and the State Prison, that this is a higher priority?

Sen. SANBORN: I would say it was an equal priority.

Sen. TROWBRIDGE: I would like to add something to the excellent presentation of Sen. Sanborn. The traffic problem out there would be horrendous with a thousand to fifteen hundred state employees landing on the hill were it not for the fact that the Interstate's spur is being extended from Ferry Street, north of the Heights and should be in full operation by 1980 when this building will be in operation. There will be an access to the building other than Loudon Road which would be crowded if we didn't do that. I just think you ought to know that that is available.

Sen. BROWN: Is it now to that in relation to the New Hampshire State Hospital that we are working on the five-year plan that was introduced in 1974 and that there has been no money held up in relation to this five-year plan to bring the capital improvements at the State Hospital up to where the legislature feels they should be and to the accreditation, so there is no money being held up in relation to that plan and also have we not allocated capital expenditure funds for the Laconia State School to update that?

Sen. TROWBRIDGE: What we have done now at the hospital is pretty much all that will be to do in the next ten to fifteen years. Now we are paying \$650,000 to \$700,000 yearly in rent to have the Health and Welfare Department out to have the Water Pollution people in that apartment complex on Loudon Road. Putting all Public Health, Welfare, Water Pollution, all of those in one building that are serviceable by access to the public and also the assurance that you won't have your rents raised each year, those kind of considerations are why since 1969 we have had the design on the building out there. We have never really been able to bite the bullet and do it. It was until the rents became so astronomical that you can see we are throwing away \$700,000 on an asset you will never see again. That is pretty silly to continue. I don't think this money is something you say didn't go to the Hospital. The Hospital is in pretty darn good shape with the budget that we now have. Laconia is not quite great but it is all that it needs right now. For the state to be spending that amount of money on rental is an inefficient way of handling business that is really why we are doing the Health and Welfare Building.

Sen. BLAISDELL: Isn't it also true Senator Trowbridge if we had built this in 1971 we probably would have saved about \$5,000,000?

Sen. TROWBRIDGE: Original estimates I had when I was Chairman of Public Works at that time in the House, taking out the CDP building was about 5.5 million dollars. CDP adds about two million to this whole thing. So it has gone from 5.5 to 8 million.

Sen. SANBORN: I realize that this is a second time but I realized a couple of things that should have been added. Where the bunker was intended to be located, the Civil Defense Agency requests that it be noted or at least the legislative intent, that they can put seven or eight desks in that space for a period of time until they find whether we are going to have civil defense be permanent quarters. The second portion of it is relative to CDP which has that portion of the building. This is now a permanent location for CDP and it is recognized by everyone that this is probably the best location they could go into because they will be at the Health and Welfare Building and right next door to the Motor Vehicle Building which are the two heaviest users of CDP and so although we can't see it, there may be a savings of time in going back and forth.

CHAIR: Question is on the amendment as proposed by the committee.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Appropriation. The sums hereinafter detailed in this section are hereby appropriated to the department of administration and control for the following projects specified:

1. State Office Building

- (a) Construction of phase II state office building in Concord for Health and Welfare and Centralized Data Processing

\$10,050,000

(b) Furnishings & Equipment

800,000

Total

\$10,850,000

Amendment adopted.

Ordered to third reading.

Sen. Preston and Foley are recorded as being opposed.

HB 26, relative to the organizational convening of the general court. Ought to pass with amendment. Sen. Ferdinando for the Committee on Rules and Resolutions.

Sen. FERDINANDO: House Bill 26 is a product of the constitutional amendment adopted at the 1974 election. This bill sets up a committee, on page 1 of the bill it shows who the members are, what their duties are. It talks about a discrepancy on page 2 in the event somebody is not satisfied with their mileage statement, there is a committee that they can go to to compute the distance. It goes on to indicate how the Senate Clerk and the House Clerk and the assistant clerks will be taken care of. The amendment eliminates the seven-day relative to distribution of the legislator's manual. According to the bill they had to do it seven-days before the orientation and the amendment says that you don't have to do it seven-days before the orientation.

Amendment to HB 26

Amend RSA 17-C:1, I as inserted by section 7 of the bill by striking out same and inserting in place thereof the following:

1. To prepare, print and distribute a legislator's manual before the legislator's orientation program scheduled pursuant to paragraph II in the even numbered years which may consider the following: The house rules, the joint house and senate rules, suggested rules for procedure of legislative committees, a map of Concord, floor plans of state house, a department directory, parking, the procedure for filing a bill, the location of committee rooms, an explanation of the telephone system, a roster of members, food and lodging locations, rules on mileage, tax status of mileage, caucuses, election of certain officers, election of attaches, operation of the organizational session, events on the first day of the regular session, salary payments, state library facilities, legislative services, and a brief sketch of parliamentary procedures.

Amendment adopted.

Sen. S. Smith moved the adoption of an amendment.

Sen. S. SMITH: This amendment deals with the Clerk of the Senate and I think in the view of many senators this is an amendment which is long overdue. It says that the Clerk of the Senate shall be deemed a full-time legislative employee and as such eligible for fringe benefits as provided for full-time legislative employees. Presently, the Clerk of the Senate is the only legislative employee on a full-time basis which does not have any benefits. He is paid solely on a per diem basis and this would allow him to be eligible for Blue Cross/Blue Shield, and also for holidays and sick leave. As I have said, I think this has been long overdue and the Clerk should have these benefits for the time he puts in.

Sen. DOWNING: I rise in support of the pending motion. I think the amendment is worthwhile, it is very deserving and I urge your support.

Amendment to HB 26

Amend RSA 14:19 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

14:19 Senate Clerk. The compensation of the clerk of the senate shall be set at a rate of 60 dollars per day for each day of attendance and the president of the senate shall determine what days the clerk shall be in attendance. The clerk of the senate shall be deemed to be a full time legislative employee and as such eligible for fringe benefits as provided for full time legislative employees.

Amendment adopted.

Ordered to third reading.

Sen. Jacobson presiding.

Sen. BOSSIE: This is a seemingly very complicated bill because of the legal terminology in it but basically what it does is to conform two sections of the statutes. Basically, House Bill 38 is intended to carry over from prior law the types of offenses which are subject to dangerous sexual offender classification while taking into account the legislative intent to contract sexual offense prohibitions in certain cases and expand

sexual offense prohibitions and others. This has to do with our adoption of the criminal code last year on changing the law on rape. This is a bill that has apparently been requested by the Attorney General's office. At the hearing the Judiciary Committee didn't receive much testimony on it but for the fact that we know they would like this bill very much.

HB 38, amending RSA 173-A, the dangerous sexual offenders law. Ought to pass. Sen. Bossie for the Committee on Judiciary.

Adopted.

Ordered to third reading.

FURTHER HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

See House Journal for May 18th.

Sen. Brown moved nonconcurrence and setup a committee of conference.

Sen. BROWN: In their amendment they changed some figures in the State Prison and they have added a new section, Section 6 which I think the Senate should study.

Adopted.

The Chair appointed Senators Brown, Sanborn and Blaisdell.

TAKEN FROM THE TABLE

Sen. Bossie moved that **SB 44** be taken from the table.

Adopted.

SB 44, relative to changes in the fuel adjustment charges of public utilities.

See House Journal for March 30th.

Sen. Rock moved nonconcurrence with the House amendment and setup a committee of conference.

Sen. BOSSIE: I would concur with the motion made by Sen. Rock to nonconcur for several different reasons. I know there has been a difference of opinion between the House and the Senate on this bill and my point, if we notice in paragraph II of the House amendment, that is what is referred to in the Senate as the Sinvillie amendment, that we decided to throw out here in the Senate. The House put it back in and among other things this bill needs a little work. I am sure that a committee of conference could do something on it.

Sen. ROCK: My original motion to nonconcur and to have a committee of conference is for a quite different reason than Sen. Bossie has outlined for his reason. However, I think the two reasons combined are efficient that we should nonconcur. Again, I ask the Senate to consider the fact that we have two active committees that are working in the proper legislative procedure to come to a conclusion as to whether or not the Public Utilities Commission is acting in the best interests of the people of the State of New Hampshire; to determine whether or not the Public Utilities Commission is properly structured and staffed. I would like to state for the information of the Senators, here, that the committee that was established by you vote on **SB 280** has been doing its work. We had a hearing in Concord last night, it was not particularly well attended but I can say at the other hearings in Manchester and in Nashua we have had good attendance. I might also say that the original intent of **SB 44** which was to establish public hearings at least caught somebody's eye and caught somebody's ear. At 10:00 this morning at the Public Utilities Commission's offices in Concord on Pleasant Street. I attended the opening of a public hearing on all things, would you believe, of the fuel adjustment charge for the month of June that was scheduled by the PUC so that the public might come in so that the Public Service Company would explain fully to the public why the fuel adjustment charge in June will be \$1.05 and unfortunately I could not stay for all of that testimony but somebody is hearing, at least now, the cry of the public. I hope that the Senate would understand that there are broad powers and wide avenues now before the Public Utilities Commission to do some of the things that are perhaps are intended by what I will refer to as the Proctor amendment. Some of you will remember it by another title, it strongly resembles Senate Bill I from the 1975 session. This Senate voted in its wisdom to approve Senate Bill 280 to really study whether or not within the confines of the Public Utilities Commission we can have a general council; we can have a consumer advocate; we can have the kind of full-time repre-

sentation by the Public Utilities Commissioners that the people of this state deserve and indeed are paying for with their taxes. It is mind boggling to me to assume that the people of New Hampshire are going to sign the check to pay their electric bill and with the acrimony that will accompany the striking of that signature, then pull out the checkbook again and write another check to fund the lair of bureaucracy on a voluntary basis or otherwise to give them a better shake with the giant utilities. Gentlemen of the Senate, that just doesn't make any sense to me. If we are funding a Public Utilities Commission through our taxes and we are not getting what we deserve then lets correct that but let us not be so foolish as to assume that the people of this state are going to make out two checks: One to pay the high charges for electricity and Arab oil and then write out another one to have somebody protect their best interests before these utility companies, that responsibility belongs with the Public Utilities Commission. They can do it if they want to do it. They are doing it this morning. They are holding a public hearing on the June fuel adjustment charge and I wonder why. I think we know why and they can be made to be responsive without asking our already overburden taxpayers to fund this Proctor amendment on a voluntary basis. I am opposed to it. I think it is unnecessary and I think it is an affront to the people of this state to pass it. You have already taken positive steps with Senator Downing's committee, with the committee on the restructuring of public utilities and we are six months away from a report from those committees that I think will be positive, that I think will be meaningful and I think to establish this as an interim until those reports are in is unnecessary and I think a committee of conference should consider that and I hope they will strike out the Proctor Amendment.

Sen. FOLEY: Sen. Rock, if you are on the committee of conference you will make it your business to attempt to strike out the consumer advocacy section of the bill?

Sen. ROCK: I am very much opposed to the consumer advocacy bill. I think that it is unnecessary. I think your not taking cognizance of what the Senate, the House and the Governor have already approved to do in a meaningful way what has to be done for the people without asking them to foot the bill for this advocacy council. I think there is a place for a consumer advocate; I think there is a place for a general council; I think that it is important as we look today on Pleasant Street we are having a fuel adjustment charge hearing to see whether or not the company can justify the fuel adjustment charge of \$1.05; that the three commissioners will sit in judgment on the presentation being made; the company will make the presentation with their experts and lawyers and yet we don't have in the Public Utilities Commission a general council on a fulltime basis that we should have but we are getting to that and we are doing it the right way. Not on the last days of a special session when everyone is anxious to go home; not as a last minute amendment to a bill that it should not be on but I am very much concerned as you are Senator with how the public is treated within the PUC which is what this ball game is all about. That is where the authority, the subpoena powers, the investigatory regulations lie and they have, I think, not been responsible. I don't see us establishing another branch of this somewhere out here is going to solve the problem.

Sen. TROWBRIDGE: Sen. Bossie has put in a quandary to some of us in this Senate. He says that the Sinville amendment is in the bill and I take his word for it and that is something that you would probably want to have a chance to review through a committee of conference. However, the conferee from the Senate would have no guidance as to what the feeling is in the Senate as to the Proctor amendment if we simply vote to nonconcur and to setup a committee of conference because at that point there would have been no vote here recorded for them to know whether the majority are in favor of the Proctor amendment or not. I am hoping that what I can espouse here will be understood. I intend to vote to concur on the basis that I want to have that be a vote on the Proctor amendment so that we can discuss that. I then give my word that should that motion to concur, if I am on the prevailing side, that I will then make a motion to reconsider that vote so that you can go back into a committee of conference and workout the Sinville amendment knowing what the sentiment of the Senate is on the Proctor amendment. At that point there will be instruction given by that vote as to the Proctor amendment. I think it is important for us who feel maybe opposite to Sen. Rock that the Proctor amendment represents a way of citizen's participation in this process which is not now available and even a hired gun who might be a general council reporting to the Public Utilities Commission is not going to be a consumer advocate, he is going to be an employee. I am bringing it up today just so you will know, the Department of Unemployment Compensation has two or three lawyers who are representing the unemployment compensation not the unemployed and they do their best and quite well to keep anybody from claiming any money even if he deserves it. I

think this Senate has to be able to take a vote on the Proctor amendment and then in deference to Sen. Bossie's and there may be defects, then have a vote to nonconcur and setup a committee of conference. I hope this is how we can structure this vote. The vote would be to concur or nonconcur if we decide to concur then we can re-consider our action whereby we concurred and then nonconcur and setup a committee of conference.

Sen. CLAVEAU: Question.

Sen. TROWBRIDGE: Yes, there is no question that the utilities tax is something like \$6,000,000 and it goes to pay for the

Sen. CLAVEAU: But it really isn't out of the taxpayers' pocket, it is out of the utilities?

Sen. TROWBRIDGE: Well, the rate making of the utility counts in a certain amount of profit that they are going to be getting. They pay a 9 percent tax on their profit so that profit came all from the taxpayer eventually and the consumer. There is nothing that is paid that is not out of the consumer's hand.

Sen. CLAVEAU: Is it reasonable to assume that this Proctor amendment, citizen participation at the rate I think of \$2.00 a year, is sort of fair and proper in comparison with the utility company paying for the cost of the PUC?

Sen. TROWBRIDGE: I am saying that if the citizens of this state decide they want someone who is paid by them alone as consumers and not through the utility tax which is paid for by the utility, then they should be given the chance to fund this. That is exactly what the House has said and I think that is the issue before us, and an issue before us, as to whether you can have somebody who is sort of like the Swedish who is an utility council so that there is someone who the public can say is not in any way related to the Public Utility Commission and is separate. That is where I think you will find people like Ralph Nadar and others have had their strength, that they are not funded by industry. That is how they have made their strength.

Sen. BOSSIE: Your proposal is perhaps a good idea to see what the sense of the Senate is. Would it be favorable to you if the question was phrased in such a manner as to permit the committee of conference to consider other alternatives within the idea of a consumer advocate? I understand there are a few people that helped kill our bill last year, Senate Bill 1, are still opposed but at the same time there are different ways to do it so that everyone can be pleased with the result, even Sen. Rock.

Sen. TROWBRIDGE: I have no objection. If we can get a symbolic vote here, let's just say the nos have it on Sen. Rock's motion, at that point the conferees on the part of the Senate would have an idea that Senate wants a consumer advocate provision. I have no objection for them going in and bargaining with the House to get something, maybe a little change, that isn't my point. Otherwise if we don't have a vote structured this way because it is coming only to concur or nonconcur, there is no way of the Senate towards expressing themselves on this issue. That is all I am asking.

Sen. MONIER: I rise in support of Sen. Rock's comments. I make no comments on Sen. Trowbridge's proposal and I have no objections to debating it on the floor one way or the other. I think it ought to be perfectly clear to the rest of the Senate that what you are discussing is not only the Proctor amendment but the whole procedure by which **SB 44** has suddenly become something from what it was not intended to be. **SB 44** had three sections in it and I would just like to remind the Senators of this. The three sections were a public hearing; the second major section was something that dealt directly with the Public Service Company and fuel adjustments in that they could not then charge fuel adjustment increases, it was called section 3 which came about through their own activities or their own concern such as maintenance and etc. Ever since **SB 44** has been before the public we have had press conferences, press releases; we have had lobbying until the arms are bent and broken; the Public Service Company has been roaming the halls and berying this and berying that and all of a sudden when we are all done, this is all part of the process I have no objections to it, but all of a sudden when we are all done we wind up with a bill that has public hearings in it. It has been gutted of the main thing that looks after after the consumer and I think those who are arguing, not here but in the House, for the Proctor amendment so-called, **SB 1** in disguise which we have already voted down, arguing that they are looking after the consumer when they ought to be asked by somebody why it was that they took Section 3 out for in the first place. Because that would have looked after the consumer with respect to the basic issue of **SB 44** which was fuel adjustment charges and nothing more. I just say that so that it is in your memory. The second thing is that remember that it went out while this came in and I think therefore it has to be remembered by the Senators that part of the process of legislation is compromise and certainly the Proctor

amendment was a compromise coming in in order to get rid of Section 3 which I feel would have the best effect upon the consumer in the first place. Let me talk about the Proctor amendment for a moment. There have been all kinds of press conferences. As a matter of fact I attended one accidentally that was done by Mr. George Bruno, I think, in Legal Services in which the public has been told that the Proctor amendment provides them with the protection and the advocacy they need in front of the Public Utility Commission so that they can have somebody who is technically capable of answering and responding to the hearings. This is true but what they have neglected to say and I want as a matter of record here, is that this also allows them to appear every place else and that was the basic objection we had to SB 1 in the first place. It is not that the advocate would be in front of the Public Utilities Commission arguing about fuel adjustment charges. He could be there, he also could be somewhere all over the state arguing about beaver dams, nuclear plants, coal operated hydroelectric or any other kind of thing that he wishes and that has been left out of the say at all. The second thing is that it has been told that this would be a major thing funded by voluntary contributions and they have made a big issue about it. They haven't bothered to say that it is still in this Proctor amendment as it was in SB 1 that this advocacy council can also apply for federal grants, private grants, outside aid, etc. and I predict that the first one they will get an aid from will be the Sierra Club. If you want to argue about advocacy and looking after the consumer that is one thing and if you want to argue it in the terms of the consumer needs protection then I ask those who support it in the House and some of the Senators here are well aware of it and are willing to support it here, why Section 3 was taken out because that would have looked after the consumer with respect to the fuel adjustment charge which is what Sen. Rock and myself started with this. The second thing is and I think the Senators have to ask themselves, not only do we want an additional bureaucracy but remind themselves; (1) that whether voluntary contributions come in or not and there are many that feel that they will not because I can't see a person that is already upset by paying a higher electric bill paying extra money beside. There is a way under this Proctor amendment by which they can gain funds elsewhere and continue on with their task so it is not voluntarily necessary. (2) Is to whether this advocacy council as it now is with the Proctor amendment is really just for the Public Utilities Commission on rate hearing and it is not. They can do that but they also can intervene in any court, in any proceeding in any matter dealing with energy, in any matter dealing with utilities and etc. I strongly suspect that the reason for the Proctor amendment being on this bill is very simply that once again those who want advocacy for the purposes of determining energy policy in this state saw an opportunity to take out Section 3 which many different areas did not wish, one of which was certainly the Public Service Company, and get what they had already defeated under SB 1. I think regardless of all the rhetoric and the way in which we discuss this and I have nothing against Senator Trowbridge wanting to discussing it under concurrency or nonconcurrency or anything else. I think you ought to find out what the basic issues are and that is what the basic issue is. SB 44 with or without the advocacy council is a good bill. It dealt with a consumer problem; it would have been better if Section 3 had been left into it, it was not and substituted for it and to get the votes to take it out is the Proctor amendment. Now you are not worried about fuel adjustment you are now dealing with a much broader subject all being lumped under the fact that we need this kind of an advocacy for the purposes of looking after fuel adjustment—nonsense.

Sen. TROWBRIDGE: Just to make it clear, are you aware that I have stated that should the no's on this vote that I will make a motion to reconsider so that we can then go in and you can argue about Section 3. You can argue about various things, we will just know where we stand on that one issue?

Sen. MONIER: I already stated that I have nothing against your suggested way to deal with. I just wanted to make sure when they started taking that first vote that they know what they are going to windup dealing with. I have no objection arguing about it one way or the other. If you are willing to go along with putting Section 3 back in I'm with you.

Sen. LAMONTAGNE: Are you aware of the suggestion that Arthur Drake made before the House about putting in some funds to possibly take care of the last amendment on SB 44?

Sen. MONIER: I have to say not really because there have been so many people talking about SB 44, some of which are directly related to what the basic issue was and some of which are related to what I have discussed.

Sen. LAMONTAGNE: I am talking about the consumer part here he had said something about funding instead of making it voluntary funding?

Sen. MONIER: No I have not. My point about the voluntary is that while it has been stressed I just want to make certain that the 24 Senators recognize that if they didn't get one single cent from voluntary under the Proctor amendment that is here, they could certainly find enough money and I have already stated where I think it would come from.

Sen. LAMONTAGNE: Assuming that there is a committee of conference, do you have any intention of putting Section 3 back in again?

Sen. MONIER: My answer very frankly is I don't know. If there is a committee of conference whoever is on it I hope would recognize what the basic bill was and would fight for the basic bill and leave this other nonsense out.

CHAIR: Question is on the motion as offered by Sen. Rock that the Senate do now nonconcur and setup a committee of conference.

Roll call requested by Sen. Fennelly and seconded by Sen. Blaisdell.

The following senators voted yea: Sens. Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Ferdinando, Sanborn, Provost and Brown.

The following senators voted nay: Sens. Stephen W. Smith, Blaisdell, Trowbridge, Claveau, Roger A. Smith, Bossie, Fennelly, Downing, Preston, and Foley.

Result: Yeas 12, Nays 10.

Motion adopted.

The Chair appointed Senators Rock, Jacobson and Bossie.

FURTHER HOUSE MESSAGES HOUSE ADOPTS COMMITTEE OF CONFERENCE RE- COMMENDATION

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets.

SB 50, relative to property tax exemptions allowed to surviving spouses and widows of veterans and establishing the termination date of Viet Nam conflict for veteran's exemption purposes.

COMMITTEE OF CONFERENCE REPORTS

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the hold period for unclaimed pari-mutuel tickets.

Sen. Brown moved the adoption of the Committee of Conference Report.

Sen. BROWN: The House amendment changed the Senate amendment from one fifty-three fifty each year to one fifty each year for three years. The committee of conference report compromises that it would be one fifty for the first year, one fifty for the second year, two fifty for the third year with a clause in that there would be no money received after that without re-evaluation going back to the legislature for appropriation.

Sen. BLAISDELL: I highly concur being a member of the committee of conference. I think that the House was very decent to us. Arthur Drake gave us a lot of time and effort on this and I think this is the proper approach. After three seasons are over they should come back in and prove their point whether it is a good program or not. I think it is an excellent committee of conference report.

Sen. PROVOST: Is that pre-season or three years?

Sen. BLAISDELL: It is three years, one fifty the first year, one fifty the second year and two fifty the third year and then from there they have to come back to the legislature and prove that they are a successful program.

See House Journal of May 19th.

Adopted.

SB 50, relative to property tax exemptions allowed to surviving spouses and widows of veterans and establishing the termination date of Viet Nam conflict for veterans' exemption purposes.

Sen. Sanborn moved the adoption of the Committee of Conference Report.

Sen. SANBORN: We eliminated the word spouse in the original bill and returned it to widow.

See House Journal for May 19th.

Adopted.

SUSPENSION OF RULES

Sen. Brown moved that the rules of the Senate be so far suspended as to allow the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted and that they be passed at the present time.

Adopted by requisite 2/3 vote.

Third reading and final passage

HB 6, improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and certain university system employees and making an appropriation therefor.

HB 46, increasing the salary of the director of state police and making an appropriation therefor; and establishing a joint legislative committee to study the inequities in the salary ranges of unclassified state employees.

HB 24, making an appropriation for capital improvements.

HB 26, relative to the organizational convening of the general court.

HB 38, amending RSA 173-A, the dangerous sexual offenders law.

Adopted.

RECESS
OUT OF RECESSFURTHER HOUSE MESSAGES
HOUSE NONCONCURRENCE IN SENATE AMENDMENTS
AND REQUESTS COMMITTEES OF CONFERENCE

HB 16, legalizing the regular town meeting in the towns of Rye, Lee, Exeter, Enfield, Alton and Madbury; legalizing several town meetings in the town of Woodstock; legalizing the special town meeting in Newmarket, legalizing a meeting of the Belknap county convention and authorizing the town of Carroll to borrow money to meet operating expenses.

The Speaker appointed Representatives Hanson, Davis, Greene, and O'Connor.

Sen. Monier moved the Senate accede to the request for Committee of Conference.

Sen. BOSSIE: I have no objection to doing just as Senator Monier suggests. Too much has already been added to that bill as it is and I would hope that the committee of conference from the Senate would not buckle and whatever is there would be the furthest we would go and if anything we would cut some of the junk out of it.

Sen. MONIER: I believe the committee of conference purpose has nothing to do with what is now in the bill. It is to discuss something that might want to be added to the bill. I am not disturbed but I think you should be reminded Senator Bossie that these types of bills are normally by their very nature a catch all and if an error is found or something is found that needs to be corrected, it is the time to do it while we are here to protect the municipalities and so forth. There is nothing in HB 16 that has not been thoroughly checked with every agency that is involved. This type of a bill is in every session. It has always done this type of a thing and it has every time raised a question and someone else comes in with something else. I would be certainly willing to have a law passed that we can't do this at all but I think then that you are going to put an extreme burden upon the towns and etc. for allowing for corrections of their town meetings and so forth. Sometimes these people find things at the last minute and I think we ought to protect them as much as possible.

Sen. TROWBRIDGE: We have an expression that we have used before, are you aware that they are called legislative doggie bags?

Sen. MONIER: Yes, and at this particular time I feel like the dog in the bag.

Sen. POULSEN: Do you realize that the amendments on this bill that are listed as Senate amendments are actually House amendments? They wanted the amendments not us and our feeling is that now they are questioning what they have added to the bill.

Sen. BOSSIE: As you will recall, when you were arguing that bill there were a number of amendments that I felt were not germane. I still feel that way. I agree with Sen. Monier to an extent that some little town wants to legalize their town meeting but frankly I am going to keep track of that bill to see what else is being added because, as we know in the past, some heavy things have gone through unnoticed.

Sen. MONIER: Let me assure you that from the committee of conference I will bring it back and hand deliver a copy to make certain you know what is there.

CHAIR: Question is on the motion of Sen. Monier that the Senate accede to the request of a committee of conference on HB 16.

Adopted.

The Chair appointed Senators Monier, Poulsen and Preston.

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution.

The Speaker appointed Representatives Drake, W. Kidder, Mahoney, and Ward.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Trowbridge, Saggiotes and Blaisdell.

HB 2, making a supplemental appropriation to the operating budget of the secretary of state for expenses related to the decennial renewal of voluntary corporation charters.

The Speaker appointed Representatives Kidder, Ward, McGinness and L. Boucher.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Brown, R. Smith and McLaughlin.

HB 7, defining the responsibility for the planning of sewerage projects in the Winnepesaukee river basin; defining project allocation under PI 92-500 and making an appropriation for algae control in the surface waters of the state.

The Speaker appointed Representatives LaMott, Ainley, Flanagan and Oleson.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators S. Smith, Sanborn and Blaisdell.

HB 21, making an appropriation for the operating and capital expenses of the department of health and welfare.

The Speaker appointed Representatives Scamman, Olden, Goff, and Belcourt.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Brown, Trowbridge and McLaughlin.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program.

The Speaker appointed Representatives LaMott, Ward, Williamson and Orcutt.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Sanborn, Trowbridge and Provost.

HB 44, extending the appropriation to complete Fish and Game Hatchery at Milford to June 30, 1977.

The Speaker appointed Representatives LaMott, Maynard, Stimmell and Griffin.

Sen. Trowbridge moved the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Trowbridge, Saggiotes and Blaisdell.

HOUSE CONCURRENCE IN AMENDMENTS

HB 10, making an appropriation to reimburse mental health facilities under the medicaid program.

HB 8, making a supplemental appropriation to the operating budget of the state prison for riot related and other expenses and changing the operating budget of the New Hampshire youth development center.

HB 42, to prohibit employment of illegal aliens, to correct a citation in the penalty provision of RSA 275-A and to remove licensing and employment restrictions on legal aliens.

ENROLLED BILL AMENDMENT

SB 57, establishing the New Hampshire incentive program combining grants and

loans and making an appropriation therefor. Ought to pass with amendment. Sen. Saggiotes for the Committee.

Sen. SAGGIOTES: There was an error in the number of the bill and the amendment corrects that error.

Enrolled Amendment to SB 57

Amend the third section of the bill by striking out line 1 and inserting in place thereof the following:

3 Appropriation.

Amend the fourth section of the bill by striking out line 1 and inserting in place thereof the following:

4 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Sen. S. Smith presiding.

COMMITTEE REPORT

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance. Ought to pass with amendment. Sen. Bergeron for the Select Committee on House Bill 727.

Sen. BERGERON: Basically what this amended bill proposes is what the Senate Select Committee originally set out to do last December. As you are well aware, it is the problem that we were originally called back to handle. The amended version corrects several problems with the current law. (1) It corrects the problem of mandatory coverage; (2) it reduces the cost of the program by better than half; (3) it includes mental health centers and the N.H. State Hospital; (4) it eliminates discrimination in coverage and (5) it also eliminates discrimination against the New Hampshire employer. Basically, HB 4 changes the minimum mental illness coverage requirements for all group health and accident insurance policies issued in the State of New Hampshire. In regard to the major medical policy, the bill requires minimum benefits, hospital and medical expenses for your mental illness to be at least as favorable as benefits which apply to nonmental illnesses. Your committee in going over the original House Bill 4 has offered for your consideration our amendment. The amendment does three things: (1) it makes the coverages mandatory on the part of the insurance company to provide an optional on the part of the consumer to purchase; (2) it removes all inferences to psychologists that were in the original bill and (3) it reduces the benefits as proposed in the original HB 4. Under our proposal the first four visits are excluded from coverage. Your maximum lifetime coverage was reduced from \$10,000 to \$5,000; your maximum for any twelve-month period was reduced from \$5,000 to \$2,500. In testimony before the committee, all but the mental health people were against the bill. Everyone was in total agreement that something had to be done with the current chapter. Further, the original bill allowed an employer to circumvent the law to the extent that he could go out of state and purchase his insurance coverage and the current law had no barring on his particular case. In furtherance to that I would like to read to you for the record a portion of the hearing held in Room 120 of the State House on March 19, 1976. This select committee was also a joint committee with the House. Testifying is Mr. Jim Heaton, representing Blue Cross/Blue Shield, in answer to a question as how much of his group business had faded. Bare in mind this is March 19, the original statute went in January 1. Mr. Heaton: "I don't have the exact figure with me. I can give you some examples. We have one large group in the southern part of the state almost five hundred employees who has cancelled with us. In the letter which they sent us they have expressed the opinion that they have purchased additional health insurance coverage outside the state. This is an indication of what has been going on." Our bill will eliminate this. This committee is against mandatory coverage because as I said at the testimony of labor unions, business people and the group purchasers. In our report we have tried to keep within the will of the people. The truth of this is that this type of bill will work. We saw this morning in these same chambers, HB 6. If you will recall Mr. President, you know what coverage we purchased for our state employees. No one told us we had to do this, we wanted to do this. A point there being, the person who wants the coverage will purchase the coverage. The person purchasing the coverage should expect to pay for the coverage but we should not mandate this to all people. Several people have said optional insurance will not work. Well, we have optional maternity that's working; we have optional dental and optional vision just to give you an example.

Also an interesting side light to this, just for the record, on Thursday, March 11, 1976 the Vermont Senate passed a bill on optional coverages. Everyone has told us that Chapter 349 is a bad bill but it has also been said and inferred that if we don't go along with the original HB 4 we are going back to the original bill effective January 1. The committee's question is, if that be the case, is it that bad. Further, I would like to read into the record, simply because I don't believe this kind of talk going on around the halls of the State House. I would like to read for the record also the final report and recommendation of the House Select Committee on Mental Health legislation prepared by Representative Clark. "After considerable discussion the committee agreed that some form of mental health legislation was needed. That the current law aside from the cost factor needed to be amended." I don't know what more we need or how much stronger we have to be told that a change is definitely required. On the basis of the information submitted by the committee we ask for your adoption.

Sen. FOLEY: The House Appropriations Committee worked 27 hours and the Senate Finance Committee worked many many hours when this bill was presented to us. When you had your meeting yesterday did you have any input from anyone except your own committee in working on this?

Sen. BERGERON: Senator, the first thing that you have to remember is that your Senate Select Committee has worked since last December. We have had countless public hearings. You also must remember that when the original mental health bill was presented in the House, it was on an optional basis and was passed. It was then diverted back to House Appropriation at which time when it came back on the floor Representative Drake was successful in having it changed to the mandatory basis. We took advantage of Senator Trowbridge's notes and comments from his hearing and we also had additional questions. We had a couple of people there from Blue Cross/Blue Shield, I believe, that filled us in on some of the other aspects of the bill.

Sen. FOLEY: I wonder if you had contacted Commissioner Whalan on this presentation that you are making today and did he agree?

Sen. BERGERON: Yes, I did contact Commissioner Whalan or vice versa. I contracted him yesterday and he called me this morning. I spoke to him on two different occasions. His position is strictly an hands off policy. He is not taking a position one way or another.

Sen. FOLEY: If I called Commissioner Whalan up and I said to him are you for or against HB 4 as it is now being presented, you mean he would tell me neither fish nor fowl?

Sen. BERGERON: I would assume so, that is what he told me. If it were to relieve you any Senator perhaps you should call him.

Sen. TROWBRIDGE: At the discussion we had as you said, Sandy Taft of the Blue Cross/Blue Shield was present, would you repeat for the Senate what the Blue Cross/Blue Shield people are saying to both you and to us about the posture of this bill at the present time and why they were in favor of HB 4 as it came through Senate Finance?

Sen. BERGERON: Several things were discussed so could you be a little more specific?

Sen. TROWBRIDGE: Isn't it not true that Mr. Taft was present and said to both your committee and ours that the Blue Cross/Blue Shield people were in favor of keeping the mandatory coverage at this time under HB 4 as it came across from the House with the cost cut in half—that they are in favor of that rather than going optional at this time in the bill on the theory that the House will never accept it and you end up with the mandatory coverage of the higher cost. Isn't that what their position was?

Sen. BERGERON: I think what their position is, they would rather have the mental health coverage on an optional basis. They are caught right in the middle on this thing and rather than have the current law as it is they would like to see some changes.

Sen. TROWBRIDGE: Did not they say that at this point they think it unlikely that you will have acceptance of the House of the amendment which you are proposing which is optional and therefore they are going to be stuck with the present chapter, Chapter 349, which has under their calculations and their rates a 2.9 price tag? Isn't that what they are saying right now?

Sen. BERGERON: I think justifiably so they have some concern of the outcome of the present amended bill.

Sen. TROWBRIDGE: I will simply say that I gave my notes to the Select Committee and they have given them to someone else. One of the things that I think is apparent here is that and I think Sandy Taft is the one I am really relying upon, I think they know more about this than anyone else, is that it is their opinion that if we come across with the amended that we have here which is optional, it will go into a committee of

conference and it is unlikely that you will get a unanimity of a committee of conference signing off in the House because there was a forty vote margin in favor of the mandatory coverage. Mandatory coverage yes but cut down in half of what the present chapter 349 covers. All I am saying is that if the members here want to go on a semifulful task and end up at the end of this session which we were called to do something about the cost of Blue Shield mental health coverage, they can go ahead but I think its Blue Cross' judgment and it certainly would be my judgment, that we could pass this thing today and you are going to end up with a bill. The way it is now with people being able to go out-of-state to get their coverage. I happen to know that large company in south-western New Hampshire and why it switched its coverage by the way and it had nothing to do with mental health coverage at all. They became a self-insurer which is entirely a different story. I think we are now at this point, coming down to the end of the session, saying we think it should be optional, we are going to end up with nothing and I would hope that we would not do that because the figures that I got from Blue Cross and from the Mental Health Services for the first three months of this year showed that there are not a lot of people going into the mental health centers, not being swamped because of this law, the total amounts paid under this program since January 1 are about \$160,000. There is no way that even the present law costs 2.9 million in my option, it may be something like a million and a half is the present cost and that if you adopt HB 4 you would cut that to \$700,000, roughly, charge and that can be afforded. That was precisely the amount of money when we originally passed Chapter 349 in the last session which was given to us as the cost of having mandatory mental health. It was \$600,000 so I really think when this whole thing shuffles out you can have mandatory coverage and not have a high expense if you will adopt HB 4. The other that I see is that it goes around the circle, we don't get agreement, Chapter 349 goes on the way it is and you have then done nothing. When you have 40 votes in the House that is a lot of men to make up. That means you have got to change 20 people. There is a pretty good attitude in the House that a lot of people want to see this thing fail because they would much rather have the present law. I think it is dangerous if we do not accept HB 4, cut it down. I don't mind reducing the cost more and all that but to try and tilt with the optional clause I think it is going to be unseccessful and that's why I am going to vote against it.

Sen. BERGERON: I found my notes and I would like to answer your question. I would like everything out in the open. Everything on record. I have found a letter from Alexander Taft and I would like to read it to you and I think probably this will answer your question. It is part of his testimony. "My name is Alexander M. Taft I am Director of Customer Service Department for Blue Cross/Blue Shield in New Hampshire and Vermont. Our position consistently on this and other issues that have been before the New Hampshire legislature has been that we favor the optional approach to providing health insurance benefits. We recognize however that there has been considerable debate in regard to providing mental health coverage. We believe that the Appropriations Committee has been diligent and responsive, which I agree, to providing a compromise bill, HB 4. Then he goes on—HB 4 should reduce the cost of coverage to Blue Cross/Blue Shield customers. We believe that this is a more responsible bill." I think probably this is what you were eluding to in your earlier question.

Sen. TROWBRIDGE: That means that Sandy Taft and the Blue Cross/Blue Shield people at this time, at the position we are at in this particular day, are saying that we think it is smarter of you to adopt HB 4 as it came from the House with whatever minor amendments you want than to take on the issue of optional verses mandatory between the House and Senate in which case he fears that he is going to be stuck with Chapter 349 the way it is. That is what he is saying and I agree with him.

Sen. BLAISDELL: Has Frank Whalan seen this amendment at all?

Sen. BERGERON: I don't know.

Sen. BLAISDELL: How could he say he couldn't take a position one way or the other if he hasn't even seen the amendment?

Sen. BERGERON: I think what I said, when I spoke with the Commissioner he was not taking a position one way or the other. I called the Commissioner yesterday afternoon and I told him what the committee had in mind. He was aware of what was in the proposed amendment.

Sen. BLAISDELL: He was aware of what is in this proposed amendment?

Sen. BERGERON: I told him what the committee had in mind, yes.

Sen. BOSSIE: Did you take advantage of attending the hearings before the Senate Finance Committee?

Sen. BERGERON: I did not.

Sen. BOSSIE: How about the House Ways and Means Committee?

Sen. BERGERON: I did not.

Sen. BOSSIE: Wouldn't you feel that before your Special Committee could really come up with a good amendment that you should hear whatever else has gone on or see a transcript?

Sen. BERGERON: Since last December we have been having these hearings. The same people are testifying hearing after hearing. We have heard it all and more than once, incidentally the Select Committee has heard the same people.

Sen. PRESTON: Would you agree that logically what Senator Trowbridge said might be correct that if your amendment fails to carry that we will be in the same position in January and your efforts to pass this amendment you might assume the responsibility of reverting back to where we are now?

Sen. BERGERON: In the first place it is not my amendment. It is the committee's amendment and the second place I think there comes a time when you have to do what you think is right. I must admit from a political standpoint I am very naive at this and Senator Trowbridge is a seasoned expert perhaps he is right. The feeling I get is that it won't quite go that way. Should it, as far as my taking the responsibility this is why right from the start I wanted to lay it all out for the members of the Senate to make their decision. No one is trying to railroad anything, push anything or anything else. It is there and it is up to the members of the Senate to make a decision.

Sen. PRESTON: Do you think it proper if Commissioner Whalan just relayed on the phone to Senator Foley that he had never seen this amendment. That the person we hold most responsible in the state for reviewing such things that we should vote on anything of this magnitude today?

Sen. BERGERON: Senator that is up to you. We were told that we were on a deadline. The amendment, to my knowledge I don't know who saw it, as far as I know no one saw it, however out in the halls this morning I heard scuttle butt of what was in the amendment. How they got it I don't know because Gordon Snyder of Legislative Service never delivered the amendment until approximately 11:30 this morning.

Sen. PRESTON: You mean to tell me that no one had seen these amendments before 11:30 this morning?

Sen. BERGERON: This is correct.

Sen. TROWBRIDGE: Do you realize that this is not a situation where you pass an amendment and the House can vote on the amendment. This amendment will only go into a committee of conference and there it will be ironed out by seven people. Even though the House might in fact want to change its vote, unless those seven people or the four on the part of the House change their minds, those conferees, it will never be seen to be voted on by the House. Do you realize that that is why the position is different than saying let's do what we think best and put it out there and have a vote on it, fine and dandy that would be great but you are not going to have that situation, do you realize that?

Sen. BERGERON: Yes senator I realize that but I also realize that the Senate should have some input into this. There was a very very strong feeling amongst members of the committee. I think in fairness this is what they agreed upon and we should present it on the floor.

Sen. FERDINANDO: As a member of the Select Committee I would like to say that one of the reasons for our coming up with this amendment was not that the members felt so strongly about it being mandatory or voluntary, it was to give us a little more time to allow a conference committee to take place and see if we can iron it out between now and next Tuesday. I know that some of the amendments from the Finance Committee were good ones, we didn't have time to digest them and my feeling as a member of the committee was let's go with the amendment, allow a conference committee to take place and let's have some more input between now and next Tuesday.

Sen. FOLEY: I did question Commissioner Whalan's approval or disapproval of it and I think I should tell you that I did call him, he is up in the Speaker's office at this time. He said he had never seen the amendments and he didn't exactly know what was in them and he didn't want to take a position one way or the other because he had not seen them.

CHAIR: Question is on the adoption of the committee report of the Select Committee on House Bill 727.

Amendment to HB 4

Amend RSA 415:18-a, I as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. Each insurer that issues or renews any policy of group or blanket accident or health insurance providing benefits for medical or hospital expenses, shall offer to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state and whose principal place of employment is in this state, coverage for expenses arising from the treatment of mental illnesses and emotional disorders which, in the professional judgment of psychiatrists, are subject to significant improvement through short-term therapy, and benefits for expenses arising from diagnosis and evaluation of all other mental illnesses and emotional disorders. Such benefits shall be at least as favorable to the certificate holder as the minimum benefits specified in paragraphs II, III and IV.

Amend RSA 415:18-a, III (a) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(a) Benefits for services of a psychiatrist, who customarily bills patients directly shall be subject to terms and conditions at least as favorable as those which apply to the benefits for the services of physicians for other illnesses, and the ratio of the benefits to the fees reasonably and customarily charged for the services of such psychiatrists shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

Amend RSA 415:18-a, III (d) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(d) Benefits for outpatient services under this paragraph need not be provided for the first, second, third or fourth visit providing such a limitation applies in the case of services for other illnesses, and benefits for outpatient treatment may be otherwise limited to not less than 15 full hours of treatment in any consecutive 12-month period.

Amend RSA 415:18-a, IV and V as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

IV. In the case of policies or certificates providing benefits for hospital and medical expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$2,500 per covered individual, and to a lifetime maximum of not less than \$5,000 per covered individual. In this paragraph, covered major medical expenses include the reasonable charges for services and treatment on an inpatient, outpatient or partial hospitalization basis by a psychiatrist, a licensed general hospital, a public or licensed mental hospital, or a community mental health center approved by the division of mental health, department of health and welfare.

V. In this section "psychiatrist" means a licensed physician who is board-certified or board-eligible according to the most recently promulgated regulations of the American Board of Psychiatry and Neurology.

Amend RSA 419:5-a, I as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

I. Every hospital service corporation, and every other similar corporation licensed under the laws of another state, shall offer to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state and whose principal place of employment is in this state, coverage for expenses arising from the treatment of mental illnesses and emotional disorders which, in the professional judgment of psychiatrists, are subject to significant improvement through short-term therapy, and benefits for expenses arising from diagnosis and evaluation of all other mental illnesses and emotional disorders. Such benefits shall be at least as favorable to the certificate holder as the minimum benefits specified in paragraphs II and III.

Amend RSA 419:5-a, III and IV as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

III. In the case of policies or certificates providing benefits for hospital expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$2,500 per covered individual, and to a lifetime maximum of not less than \$5,000 per covered individual. If such a policy or certificate is issued jointly with a medical service corporation licensed under RSA 420 or a health service corporation licensed under RSA 420-A, the limit on benefits payable for expenses incurred by any covered individual in any consecutive 12-month period and

the limit on lifetime benefits may apply to the total benefits for mental illnesses and emotional disorders provided under such policy or certificate for such individual. In this paragraph, covered major medical expenses include the reasonable charges for services and treatment on an inpatient, outpatient or partial hospitalization basis by a licensed general hospital, a public or licensed mental hospital, or a community mental health center approved by the division of mental health, department of health and welfare; except that such expenses may exclude charges arising from the professional services of a psychiatrist who customarily bills patients directly rather than to a hospital or community mental health center.

IV. In this section "psychiatrist" means a licensed physician who is board-certified or board-eligible according to the most recently promulgated regulations of the American Board of Psychiatry and Neurology.

Amend RSA 420:5-a, I as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

I. Every medical service corporation, and every other similar corporation licensed under the laws of another state, shall offer to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state and whose principal place of employment is in this state, coverage for expenses arising from the treatment of mental illnesses and emotional disorders which, in the professional judgment of psychiatrists, are subject to significant improvement through short-term therapy, and benefits for expenses arising from diagnosis and evaluation of all other mental illnesses and emotional disorders. Such benefits shall be at least as favorable to the certificate holder as the minimum benefits specified in paragraphs II and III.

Amend RSA 420:5-a, II (a) as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

(a) Benefits for services of a psychiatrist who customarily bills patients directly shall be subject to terms and conditions at least as favorable as those which apply to the benefits for the services of physicians for other illnesses, and the ratio of the benefits to the fees reasonably and customarily charged for the services of such psychiatrists shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

Amend RSA 420:5-a, II (d) as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

(d) Benefits for outpatient services under this paragraph need not be provided for the first, second, third or fourth visit providing such a limitation applies in the case of services for other illnesses, and benefits for outpatient treatment may be otherwise limited to not less than 15 full hours of treatment in any consecutive 12-month period.

Amend RSA 420:5-a, III and IV as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

III. In the case of policies or certificates providing benefits for medical expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$2,500 per covered individual, and to a lifetime maximum of not less than \$5,000 per covered individual. If such a policy or certificate is issued jointly with a hospital service corporation licensed under RSA 419 or a health service corporation licensed under RSA 420-A, the limit on benefits payable for expenses incurred by any covered individual in any consecutive 12-month period and the limit on lifetime benefits may apply to the total benefits for mental illnesses and emotional disorders provided under such policy or certificate for such individual. In this paragraph, covered major medical expenses include the reasonable charges of a psychiatrist who customarily bills patients directly.

IV. In this section "psychiatrist" means a licensed physician who is board-certified or board-eligible according to the most recently promulgated regulations of the American Board of Psychiatry and Neurology.

Roll call requested by Sen. Fennelly and seconded by Sen. Blaisdell on the adoption of the committee report.

The following senators voted yea: Sens. Lamontagne, Poulsen, Gardner, Bergeron, Saggiotes, Monier, Rock, McLaughlin, Ferdinando, Sanborn, Provost and Brown.

The following senators voted nay: Sens. Stephen W. Smith, Blaisdell, Trowbridge, Claveau, Roger A. Smith, Bossie, Fennelly, Downing, Preston, and Foley.

Result: Yeas 12, Nays 10.

Amendment adopted.
Ordered to third reading.

ENROLLED BILL AMENDMENT

HB 50, providing that town meeting day shall be the second Tuesday in March. Ought to pass. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: The first amendment conforms the title to the substance of the bill and the second amendment corrects an error in the amending language.

Enrolled Bills Amendment to HB 50

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

providing that town meeting day shall be the second Tuesday in March and providing that the New Hampshire presidential preference primary shall be first in the nation.

Amend section 3 of the bill by striking out line 3 and inserting in place thereof the following:

following (second) and by striking out in line 2 the words "New England" so that said section as amended shall read as follows:

Amendment adopted.

SUSPENSION OF THE RULES

Sen. Trowbridge moved that the rules of the Senate be so far suspended as to allow the introduction of a bill.

Sen. TROWBRIDGE: I am not alone here you will see the sponsors include Sen. Downing, Sen. Smith, Sen. Blaisdell, Sen. Saggiotes and Sen. Monier and they will speak to different parts of the bill. Basically as you know, the issue came up with the Belmont track and one of the biggest issues is that some \$500,000 is still owed to New Hampshire suppliers on that track. We have some people who are interested in the track, one of whom are the Rooney's of Pittsburg but there are other people I understand. To make that track come into business and payoff a two million dollar investment necessary, some adjustment had to be made in the amount of tax the state would take out of the first \$75,000 of the handle. Once you began talking about that situation it became quite obvious that Hinsdale has a similar situation. Planville has opened up, jai lai is opening up, they have days when they have only a \$20,000 handle and they keep going really almost just to employ the people at the track. They loose money in that time. You find the same thing is true at Rockingham, at a certain point it goes below break even and when it goes below break even on a given day then obviously no one is going to keep running operations at a lose forever. The philosophy has been that we are not trying to favor one track. Everything in SB 62 applies to all tracks and that I think is the key. It is not a special bill for one group. What does it do? In the first part of the bill, Sen. Downing can explain it better, but it is mostly a way of beefing up the investigatory efforts that we make when a person comes to the State of New Hampshire asking for a license for a horse, dog or any other racing. At the present time I think we have found that we have not had adequate investigation. For example, Belmont, the financial thing was never looked into properly. The first part of the bill goes through that and it has the Attorney General as the enforcing agent rather than the Racing Commission because the Attorney General is equipped to do investigations whereas the Racing Commission is not and have not been able to do so and the Racing Commission agrees. It also has an on-going financial condition of the licensee so that there is an annual examination of the financial condition of each licensee so that we can't find someone tethering and going towards bankruptcy and unable to pay obligations in this state. Then on Section 6, the tax on dog racing, we are saying that if any dog track has a daily handle of less than \$75,000 then they will pay only \$500.00 on the first \$30,000, another \$500.00 on the next \$10,000 up to \$40,000 and after \$40,000 they will pay the regular 6 percent which they now would pay. It means a savings of \$1,400 over the present situation per day that they are down below \$75,000 in the total handle. The days they are over \$75,000 they pay the same tax that they are paying now. For someone like Hinsdale it is very clear that it is 50/50 on that kind of situation and some of the times they are way down at \$20,000 and we don't get that much tax out of them any how even under the present circumstances.

So this is for the dog track, it is for all dog tracks. For the harness racing, not thoroughbred, just harness racing, what we did, and we talked today that if we passed every bill that we would come out with perhaps a million six of surplus by hook or crook. We have agreed and the Governor's representatives have agreed that perhaps \$500 or \$600,000 we could give up in revenue from all these racing things in order to keep them going. This would still leave you with a million dollar projected surplus if you did this bill. With that in mind that is how we picked taking the tax which is now on the first \$400,000 of harness racing revenue which is at 5 1/2 percent at the present time and lowering it to 4 1/4 percent and the 4 1/4 percent was sufficient to come out at \$650,000 of lost revenue to the state. That is more or less how we made our calculations on how much we could afford to give up. It works out pretty well as a matter of policy because at that point if Rockingham is running between \$2 and \$300,000 and sometimes over, that will give them a tax relief of some \$400,000. We have heard a lot of talk about the fact that they don't have enough money to promote with, half of that money goes to the drivers and the owners of the horses by contract, 44 percent of their extra money that they have after they pay the tax goes to the owner's of the purses. So that of that \$400,000, \$200,000 roughly will go to those people and \$200,000 to the track so it is not as if they are getting the full \$400,000. It is the same case in Hinsdale where the contract is the same. This has been an effort to take the horse racing thing which has been increasingly coming up, it is unavoidable. At some point the competition that is going on in Massachusetts against Rockingham, in Connecticut and Massachusetts against Hinsdale, all of those things are changing the ball game and there is no question that the Hinsdale people will be able to keep open and run the dog races in the winter whereas they made it very clear with no threat at all, but they said it is a fact of life that if something doesn't happen we will simply close in the winter at Hinsdale, move our dates around and run the dogs in the summer and forget harness racing and we will make much more money. At the point, the people who work at the track and it is about a million dollar payroll down there will simply be gone. Same thing is partially true at Rockingham. I don't think Rockingham is going to give up harness racing but they might give up some marginal days. What we are saying here is when the days get marginal you are given tax relief. When you go below the levels you get more tax relief. In that way they can afford to run marginal days but if they can't afford marginal days then they are just not going to run them and you will get no tax revenue. One final thing, in our revenue estimate we had put in no revenue for the Belmont track. It wasn't counted at all because the likelihood of it being open was at 0 at the time we did the estimates. If they could get that track up they could probably bring in \$210,000 of tax revenue or something like \$180,000 to \$200,000 in this year. That would offset pretty much what you would lose at Hinsdale. I think you will have a net loss of about \$650,000 out of this bill.

Sen. LAMONTAGNE: Did you mention that there was \$500,000 in bad bills due at Belmont. If this bill was adopted is there any chance that these people would be paid?

Sen. TROWBRIDGE: If this were passed, it says that before anyone can get a license at Belmont, they have to payback the New Hampshire supplier and the Attorney General is the one who is going to sit over that transaction. Yes, in deed that is one of our major concerns from the beginning.

Sen. FENNELLY: Are you trying to say that part of this bill that is being submitted today, SB 62, is to bail out a private segment of business in this state? Is that part of the bill or the intent?

Sen. TROWBRIDGE: The intent is to recompense our own people for the fact that when we issued a license to those people at Belmont we were wrong in that we didn't look into their financial condition. They relied on the fact that the licensee should have enough assets to pay. They relied on the State of New Hampshire and the investigatory ability which was next to nill and that is why we think we owe it to our own people to pay them back for the mistake.

Sen. FENNELLY: What you are saying is the liens on Belmont at the present time of Ferd Corporation of \$1,257,000, Manchester Paving \$70,000, Mr. Jim Nutter \$30,000, General Electric \$5,000, Mrs. Medina \$1,000,000, Canteen Corporation \$150,000, Ralph Pill \$20,000, General Electric \$200,000, Otis \$200,000 so basically we are submitting this bill to bail out contractors that built the track, am I correct?

Sen. TROWBRIDGE: We are going to help some of them. I think the thing you have got to remember is that some of those people were investors and that is not a contractor. Mr. Ferd has taken the lien on this track because he is the head contractor. He owns it and he doesn't want to own it. He can't afford to own it and he doesn't know how to run it. If we are ever going to pay back the Fence Company and Sen. Blaisdell's

contractor friend and those kind of people, someone has to take over the track. Would you rather have New Hampshire take a bond issue out and do that or would you rather by private enterprise encourage someone to come in, buy off the track, pay off the debts and go forward. That really is the issue.

Sen. MONIER: I think the question has come out in the last statement of my involvement in this. Everyone should recognize that Belmont is closed if you don't drive by it. The second thing you ought to recognize is that there are a lot of contractors and people that are holding liens against it that have no way of being paid. Sen. Fennelly has kindly provided a list but I would agree that those that are investors are not the same type. There is existent at Belmont, whether or not it should be, it is still there, a dog track with grandstand, supporting, facility, kennel facility, etc. We should recognize that summer is approaching and that is when Belmont if its going to make money its going to make it. If something is not down then you had better kiss off Belmont now and you are going to have some delapidated rubber tires and a lot of macadam that the kids can skate board on. It is on this basis that some of us feel that this kind of a bill is necessary to allow the state to see to it that a chance is given again. This is not a bail out. We are allowing someone to come in and take over the debts and run a track. If we don't do it before June they are not even going to bother to do this. We are going to have a large stadium, a large macadam track and kennels and so forth empty period. The question is not whether we are assisting private enterprise or not, the question very frankly is are we going to allow Belmont to deteriorate into a trash heap or are we going to have an opportunity for someone with money fiscally investigated, pay the bills, payoff the creditors and allow them to try and run a track. If we are we have got to do it now so they can start this year or you won't have it. The funding situation I leave to Sen. Trowbridge. I personally have looked at it, I've listened and I find no fault with it. The take on the thing, which I might add, if we do not open Belmont again although we do not have it in our estimates this year thank heaven we won't have them next year. Once again if we do not we are no worse off then we were.

Sen. LAMONTAGNE: I hope the Senate will go with the suspension of the rules in order to have this bill. You have the necessary funds to reopen this track and at the same time have the opportunity of paying some of these back bills. The innocent people that got involved are holding these bills and they should be paid. Yesterday we had a piece of literature on our desks and I hope the members of the Senate who read this piece of investigation which had been created by the Ways and Means Committee of the Senate which had been addressed to Sen. Downing from Sen. Fennelly who was investigating the dog track business. I have never voted for the dogs but I feel that in this investigation that had been created and placed on our desks as of yesterday has false information. The gentleman from the Greyhound Racing tracks says he has nothing to gain but I would like to refer to the section where it says "as I mentioned before with the amount of dog tracks in the state I am just wondering if Yankee Greyhound will own both tracks, I am wondering as I ask in the committee what happens to the Seabrook dates". I feel that Yankee Greyhound has absolutely nothing to do with Belmont. This information was even before this material was printed. This is wrong. I am a member of the Ways and Means Committee and I say that this information is false and it doesn't have any business of being on the desk of any senator.

Sen. FENNELLY: Since you are so interested in the dogs and the report that took me about two months to work up to the Chairman Sen. Downing, do you know what dogs are going to be running, if this bill is enacted, at Belmont. Do you have any idea whose dogs will be running?

Sen. LAMONTAGNE: My concern is to find out whether or not the track is going to be open. After the track is open then the dates can be set by the commission with no problems at all.

Sen. FENNELLY: I think the time has come in this state that the stop sign must go up on bad legislation and I think that time is now. I am quite interested in Sen. Lamontagne's statement pertaining to the committee which he was invited to attend to review the policy of greyhound racing which he did not attend. But more than that before we rush the judgement on greyhound and how this all came about, for a few minutes I would like to take the Senate back in time and put the fault where it lies on the Greyhound Commission. From its very conception of Belmont, the impact study submitted to the Greyhound Commission after my review and the submission of that report to the full Senate yesterday shows the lack of judgment on the Greyhound Commission. Their inability to protect the consumer, the bettor, of separate funds being setup in separate checking accounts; their inability to oversee the backup financing; their inability to check out the credit references and the financial statement

of New Hampshire Kennel Club. As an example, in the last few days of the meet at Belmont an individual was issued a check for \$1,080 on a tri-perfecta that he hit. He deposited his check in a bank in Haverhill, Massachusetts, it bounced three times and finally with my intervention with the Director of Greyhound Racing, Mr. Hatch he was finally paid off. It goes back more than that. It seems that we just pass over revenue to the state. I would like to read to the Senate pertaining to Yankee Greyhound and how this state lost \$300,000 in 1975. Question Sen. Fennelly to Commissioner Allard, the Chairman of the Greyhound Commission "You issued Yankee Greyhound 30 nights of racing during the month of April. Yankee Greyhound refused to run evening racings and only ran matinee, I said did not Mr. Keeland still own the stock in Rayham dog track on the first of April and refuse to run evening racing with a loss at the drop of a handle of \$60,000 a night and the loss to the state of \$300,000. All this is all past over, like nothing has been done. If we are going to find fault with anybody we should get back to the source, the lack of judgment. We seem to do things under crisis here. Lets get Belmont going. The question I asked Senator Lamontagne was, did you know who owns the dogs that are going to be going to Belmont if and when it opens, who owns those dogs? I don't think the dog owners are going to rush to Belmont when we made a track the first time in the history of this century, a track folds in one year. No other track has ever folded for lack of money except the one up in Belmont. At the first issuing of a license when New Hampshire Kennel Clubs said well we changed our minds, we aren't going to build it in Windham we are going to build it in Belmont and Commissioner Allard said where is Belmont. Now that is the type of commission that is being run at this particular time, lack of judgement, lack of everything that a good commission should have.

Sen. LAMONTAGNE: You have said that I wasn't present at the dog track meeting. Could you tell the Senate when I received my notice?

Sen. FENNELLY: Sen. Downing sent a notice to you and to Sen. Bradley.

Sen. LAMONTAGNE: When did I receive my notice?

Sen. FENNELLY: In May, May of 1975 and that report that you have in your hand was written in June 10, 1975 to the Chairman of the committee.

Sen. LAMONTAGNE: As of yesterday with this communication from you, were you aware that Yankee Greyhound had nothing to do with Belmont?

Sen. FENNELLY: No, what I am aware of is that on 16 of March, 1976, the mortgage was transferred to Mr. Joseph P. Millimet who is the attorney for Yankee Greyhound that is what I am aware of.

Sen. LAMONTAGNE: But as of yesterday were you aware that Yankee Greyhound had nothing to do with Belmont?

Sen. FENNELLY: I was aware that Yankee Greyhound was willing to put up \$50,000 to promote Belmont and the management of that track.

Sen. LAMONTAGNE: The answer you just gave was this in effect yesterday?

Sen. FENNELLY: No it was not yesterday.

Sen. SAGGIOTES: I believe you made a statement that no other track had closed within this period of time such as Belmont?

Sen. FENNELLY: Through a period of one year, yes.

Sen. SAGGIOTES: Does your memory serve you correctly that a dozen years or so ago one of the best track operators in the State of New Hampshire, in the history of the State of New Hampshire opened a track in Las Vegas and within a year it went into financial difficulty and had to close?

Sen. FENNELLY: That was done by legislation down there.

Sen. SAGGIOTES: Are you aware senator that some people have called this a bail out for Belmont? Are you aware that it is not really a bail out but it is a tax reduction on the take of the handle as we also have on the statutes in the State of New Hampshire, the business profits tax where an individual or a business doesn't make a profit doesn't have to pay anything and in this case here you are taxing a race plant whether it be Rockingham, Hinsdale or Belmont or Seabrook whether they make any money or not, are you aware of this?

Sen. FENNELLY: Yes, I am aware of that. I would like to comment on a question prior to that, were they in financial straights? According to the information that I received from three commercial banks and the financial statement that was submitted by New Hampshire Kennel Club for the license, the statement was made and these are three independent banks that after reviewing the financial statement of it, the track itself, no bank would lend them \$200,000 never mind \$2,000,000 I just want to clear that up. The second question pertaining to the tax relief that is on the books right now I am well aware of that but I think that we are dealing with two things here. We are

dealing with the bail out of the contractors to a certain degree and I feel very bad for them. The question was asked in committee, asked by Sen. Downing, when you were over a million dollars Mr. Ferd why didn't you go after your money? I would also like to tell you on the contract that the New Hampshire Kennel Club did have backup finance but refused to take it and in turn decided to go bankrupt.

Sen. SAGGIOTES: Are you aware of the amount of dollars involved in the tax loss to the town of Belmont and to the town of Hinsdale, if Hinsdale should decide to close during the bad nights, January, February and March?

Sen. FENNELLY: I am well aware of the tax lost to the town of Belmont and I am also aware, now we are rushing the judgment on this thing, I am also aware that we are about to loose an entire industry, the horse industry and nobody even pays any attention to that, I am well aware of it.

Sen. SAGGIOTES: Are you in favor of increasing our unemployed roles?

Sen. FENNELLY: To increase the unemployed roles, no but I will say this that unless some relief to some tracks in this state, I am not against the bill but what I am basically is the way it is being introduced and you will have 490 people unemployed at Rockingham next year and you will have 2,300 people unemployed next year in the breeding and the riders and so forth and the majority of them are residents of this state. I am well aware of that.

Sen. FOLEY: From the memo and from what you said, is it your opinion that Belmont will never be successful because of its location? I am just wondering how you feel about that?

Sen. FENNELLY: I handed out the report yesterday pertaining to the impact study. I think that the location was an error. A big error in judgment to be built there in the first place. The major error they included 250,000 people that would patronize the track from Rockingham and Strafford County during the summer, that was ridiculous. The roads up there you need a kidney transplant after you get there. The most, the maximum that track is going to handle on any given day, with the max up there of the better, would probably be 70,000 that is the max it can ever hope to obtain because of the type of better. It is like in the State of Massachusetts why dog racing is so successful because for 25 or 30 years the people have been indoctrinated with dogs. They follow them day by day, week by week. That is not so up in a tourist area. It is the type of people that are at the lake region, there with their kids and boats and so forth and they are not accustomed to dog racing. It would take years if it ever gets off the ground.

Sen. LAMONTAGNE: Are you in a conflict of interest with some of your family who are now working at Rockingham race track?

Sen. FENNELLY: It's a nice question. It's very typical of you Sen. Lamontagne. No I'm not.

Sen. BERGERON: If you have an individual, a private business man who is willing to gamble his money on an investment what objections can we have to this?

Sen. FENNELLY: No objections, but a question a very important question pertaining to management. Whose dogs are going to be running at Belmont? The Rooney family has just bought Parnell Race Track and about \$6,000,000, is management going to own the dogs or are the private dog owners going to own the dogs.

Sen. SANBORN: Question.

Sen. FENNELLY: I believe what I said was basically this. The situation has arisen now that we are finally taking a look at the pari mutuel estate's take on an industry that nobody has been paying any attention to pertaining to horses, Rockingham, Rochester and so forth. An industry that has given the state in revenue over the past forty years this includes the thoroughbreds of \$157,000,000 and yet we rush the crisis over Belmont and this is why I brought that up. The interest hasn't been there on the horses as well as the dogs.

Sen. PRESTON: For the sake of discussion, let's assume that everything you say is correct as far as the discrimination as to whether or not it should have gone there or not. But don't you think it only a positive step to do something now to see if, following up to Sen. Bergeron's question, that we get some responsible private entrepreneur that might not just bail out some industries in the state, contractors, but provide future revenues to the state instead of having inactivity or the monument up there? Don't you think we better give someone a chance to operate it?

Sen. FENNELLY: I would like to quote Senator Monier and he has a saying which is very true. If we pass this legislation Pandora's Box might open. I do not want to see Belmont go under. I don't think anything we do can help it. It is just in the wrong location. I also have an amendment to this bill which I will submit later on.

Sen. BLAISDELL: I rise in support of the suspension of the rules. I think truthfully

that this is one of the most responsible things that we have done in the Senate. I would like to ask a lot of questions and I have a lot of them but when you speak about the Rooney people you speak about the owners of the Pittsburgh Steelers. They have done an excellent job in the Pittsburgh area and I would hope that they wouldn't take too much offense to what we are trying to do here and maybe saying we don't welcome these people because I think they are a very responsible family. When you say we rush pieces of legislation, on this I don't think we have the time. I have been yelling in this Senate for the past couple of sessions, you've heard sire stakes from me and I've worn the horse ties, buttons and everything else and I believe it is one of the most responsible positions we can take. We are going to save an industry in this state. We are also going to save Rockingham Park. They didn't threaten us and neither did Hinsdale Raceway but I can assure you that if Plainville, Connecticut continues like it is and there is no reason it is not going to; if jai lai which opens tomorrow night in Hartford, Connecticut a little ways away from Hinsdale, you can be assured that that track is going to be hurt, so I think we have a responsibility to the people that work there. It is a \$20,000 a week payroll I know at Hinsdale, a tremendous payroll in Rockingham and then the surrounding things that go with Rockingham and Hinsdale to the small town and the town of Salem, the town of Hinsdale, I just don't think we can overlook. The last thing I am going to mention is that yes I have a constituent of mine who is owed from that track in the vicinity of \$133,000. He employs five to ten people, constituents of mine, who work in my area; who buy things in my area and I think I owe a responsibility to that person to try and help him. The State of New Hampshire protected itself with a bond that they would be protected for their revenue but the people of the subcontractors were not protected and they should have been. I am not going to dispute with Sen. Fennelly that maybe the Greyhound Racing Commission didn't always do what they were suppose to do. I think Sen. Downing eluded to that in this bill by the amendment that the Attorney General is going to have to look at this harder than he has ever looked before. We have given him a longer time to do this. I ask your support on this because I think it's the most responsible piece of legislation we have in this Senate today.

Sen. DOWNING: I rise in support of the pending motion to suspend the rules to permit the action on SB 62. We have had a lot of discussion so far and I will try not to repeat any of it. I do want to make a few points as Chairman of the Ways and Means Committee. We have been concerned with the Belmont track for some time. The question was raised here relative to the tax revenue, property taxes to the town of Belmont. The selectmen, as far as I'm concerned and probably all the Senate got the communication, I know the Ways and Means Committee did, the selectmen were primarily concerned with the daily license fees and the property tax wasn't a consideration at all. As long as they got their license fees they were willing to move ahead on Belmont. If they didn't get their daily fees they weren't. They will get them under this program so there is no problem there. The concept that if a private investor wants to put money in the state why should we care, well if we took a little more care when private investors wanted to build that track up in Belmont we wouldn't have the situation we have today. There is no reason why we shouldn't have been more concerned with the investor and had made sure for his sake as well as ours that he was able financially to cope with the project he was getting into. If we had made certain of that we wouldn't have the problem of a contractor owing all this money and setting there with a track that he doesn't have a license to and he can't operate and so forth so just the fact that somebody runs to our state with a bag of money and wants to do something there is no reason for us to let them do it. There are people in our state who have been residents of our state, businessmen here who are being hurt by our lack of discretion or our lack of thoroughness in dealing with this operation. During the deliberations to the Ways and Means Committee and our investigation and I must say the Greyhound Commission and Director were extremely cooperative but we did feel that there were some shortcomings. These are addressed in this bill in that perhaps you thought or you have been under the impression that it was mandatory that the Attorney General investigate applicants for dog or horse track licenses. It isn't mandatory, it's by a request of the Commission to the Attorney General. It has been a practice but it hasn't been a mandatory thing. This will fix the responsibility with the Attorney General to do this. It also will give the Attorney General a time period in which to do it. I think there should be a minimum time but it does fix a maximum time. I think another period we should address ourselves to fixing a maximum time. The Attorney General shouldn't be in a position of somebody going over and saying look, we want to issue a license next week give us a clearance on this individual. The Attorney General can just investigate so much in a certain period of time and he comes back and says in the week I've had this,

this is what I've found out, there is no problem license them. If he had had two more weeks it might have been a different story. While I believe there should be a minimum of ninety days and a maximum of six months because you can't very well have the Attorney General sitting on an application either. That is in here, the qualification is there. Also, we haven't been on top of the changing financial status of owners. If we had been on top of it with the owner up in Belmont we could have stopped him somewhere along the line and said wait a minute don't go any further. Let's get your financial house in order, we're not going any further down the road. The contractor who was involved in building that track could have done the same thing. He chose not to. That is a risk you run in a private enterprise system and when your eyes are open and you know what is happening and you want to go that way anyhow well I have very little sympathy for you if you loose your shirt. He could have done it, he could have come to the commission and said look I'm in bad trouble, my bills aren't getting paid, do something about it, give me some help, that wasn't the case. We say the commissioners should have been on top of it to begin with they weren't. The contractor certainly should have called it to the Commission's attention and got them involved he didn't. So that addresses itself to the problems there and the state has to feel, the legislature has to feel, somewhat responsible for it. You made the law creating the commission, giving them the authority, etc. If you didn't go deep enough when you established that then you have to share the responsibility for it. Now you have a problem as a result and you need to address yourself to the problem. This bill does it. The bill also addresses itself to the harness racing industry and I don't think it addresses itself strongly enough to it. It reduces the state's take up to a certain level. I think it is going to have to be greater than that. If you don't do it in this bill you will need to keep it in mind because you are going to have to do it one of these days and the sooner you do it, the better. The industry is going to have to have more of a share of that betting dollar in order to really survive. Rather to wait and go broke and then try to do something about it, you should do something when it's still healthy and it can be kept that way. The bill has a lot of things in it. It doesn't address itself to one problem, it addresses itself to several problems each of them very pressing in their own right and I strongly urge that you support the suspension of the rules and go on and pass **SB 62**.

Sen. SANBORN: Spoke.

Sen. BLAISDELL: Senator Sanborn, for the record, it is not true that Sen. Sanborn and Sen. Blaisdell were in the Governor's office with my constituent and you were present. The Governor reiterated to us that a license would not be granted to anybody unless the subcontractors of this state were paid.

Sen. SANBORN: That is absolutely correct.

Sen. FOLEY: I have been reading over the bill because this is the first time we've seen it. Under section 284:16-a, it says "any New Hampshire agricultural fair association shall be entitled to one six-day license annually to hold a dog race" is this in lieu of a horse race or are you giving them a choice?

Sen. SANBORN: This was put into the law in 1975.

CHAIR: Question is on the suspension of the rules to allow the introduction of a bill.

Adopted by requisite 2/3 vote.

INTRODUCTION OF A SENATE BILL

SB 62, relating to financial security of horse and dog race licensees; relating to a temporary adjustment of the tax on dog racing, and making an adjustment in the tax on harness horse races.

Sen. Downing moved that the rules of the Senate be so far suspended as to dispense with the reference to committee, a committee hearing and the notice of the report and that the bill be placed on second reading at the present time.

Adopted.

Ordered to third reading.

ENROLLED BILLS REPORT

HB 42, to prohibit employment of illegal aliens, to correct a citation in the penalty provision of RSA 275-A and to remove licensing and employment restrictions on legal aliens.

SB 9, increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor.

SB 18, relative to the access rights of survivors of a safety deposit box.

SB 24, relative to eligibility requirements for the Viet Nam veterans' bonus.

SB 40, amending a contributory pension system for employees of the city of Man-

chester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system.

SB 43, revising the economic poisons law and permitting the application of mosquito larvae control compounds under certain conditions.

HB 36, to provide for one additional alternate for the superior court review division.

HB 39, making consistent the criminal code provisions dealing with pre-sentence credit for confinement.

HB 43, to add statutory construction provisions to the RSA chapter on the New Hampshire housing finance agency.

Sen. Lamontagne for the Committee.

Adopted.

FURTHER HOUSE MESSAGES HOUSE CONCURRENCE IN AMENDMENTS

HB 6, improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and making an appropriation therefor.

HB 24, making an appropriation for capital improvements.

COMMITTEE REPORT

HB 49, providing for free distribution of the 1975 general court journals to members thereof. Ought to pass with amendment. Sen. Sanborn for the Committee on Finance.

Sen. SANBORN: The only thing this bill does is provide funds so that members of the House and Senate can receive bound copies of the journals of the '75 session.

Amendment to HB 49

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Distribution of General Court Journals. Amend 1975, 505:1 by striking out the footnote following 1,01, 07, 03 and inserting in place thereof the following:

*This appropriation is for printing, binding and distribution of advance sheets, session laws, pamphlet laws, permanent house journals, permanent senate journals and manual of general court. This appropriation shall not lapse until June 1977, shall be used for this purpose only, and may not be transferred. In the event the appropriation is insufficient to pay for items for which it is appropriated, the additional funds needed shall be transferred at the request of the president of the senate and the speaker of the house with the approval of the fiscal committee, from funds available in the legislative appropriation. Each member of the general court is entitled to receive, free of charge, a copy of both the permanent house and senate journals. Distribution of the permanent journals shall be made upon request of the member and in a manner to be determined by the president of the senate and speaker of the house.

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Ordered to third reading.

FURTHER HOUSE MESSAGE HOUSE NONCONCURRENCE IN SENATE AMENDMENT AND REQUESTS COMMITTEE OF CONFERENCE

HB 26, relative to the organizational convening of the general court.

The Speaker appointed Representatives Tucker, Ryan, Lyons and R. O'Connor. Sen. Ferdinando moved that the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Downing, Monier and S. Smith.

SUSPENSION OF RULES

Sen. Downing moved that the Rules of the Senate be so far suspended as to allow the

bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted and that they be passed at the present time.

Adopted.

Third reading and final passage

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance.

HB 49, providing for free distribution of the 1975 general court journals to members thereof.

SB 62, relating to financial security of horse and dog race licensees; relating to a temporary adjustment of the tax on dog racing, and making an adjustment in the tax on harness horse races.

Adopted.

ENROLLED BILL REPORT

SB 57, establishing the New Hampshire incentive program combining grants and loans and making an appropriation therefor.

Sen. Lamontagne for the Committee.

Adopted.

FURTHER HOUSE MESSAGES HOUSE ACCEDES TO COMMITTEE OF CONFERENCE

SJR 1, establishing a special committee to study tax reform at all levels of government.

The Speaker appointed Representatives French, Lyons, K. Smith, and Lessard.

SB 42, relative to the dissemination of hard-core pornographic materials.

The Speaker appointed Representatives McManus, D. Riley, Eastman and Hobbs.

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

The Speaker appointed Representatives Scamman, Scranton, Nardi and Goff.

HOUSE CONCURRENCE IN AMENDMENT

HB 49, providing for free distribution of the 1975 general court journals to members thereof.

HOUSE NONCONCURRENCE IN SENATE AMENDMENT AND REQUESTS A COMMITTEE OF CONFERENCE

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance.

The Speaker appointed Representatives Clark, K. Ward, Plourde and Mahoney.

Sen. Lamontagne moved that the Senate accede to the request for Committee of Conference.

Adopted.

The Chair appointed Senators Bergeron, McLaughlin and Trowbridge.

HOUSE ACCEDES TO COMMITTEE OF CONFERENCE

SB 44, relative to changes in the fuel adjustment charges of public utilities.

The Speaker appointed Representatives McLane, Brouliard, Proctor and Cornelius.

Sen. Bergeron moved that the Senate stand in recess until Friday, May 21 at 11:00 a.m.

Adopted.

OUT OF RECESS
HOUSE MESSAGES
COMMITTEE OF CONFERENCE SUBSTITUTES

The Speaker has substituted Rep. Nighswander for Rep. Olden on the committee of conference on HB 21.

The Speaker has substituted Rep. Sara Townsend for Rep. Lyons on the committee of conference on SJR 1.

The Speaker has substituted Rep. Anthony Stevens for Rep. McGinness on the committee of conference on HB 2.

Sen. Provost moved the Senate go into the late session.
Adopted.

LATE SESSION

Sen. Provost moved the Senate adjourn until Tuesday, May 25, at 10:00 a.m.
Adopted.

Tuesday, 25 May 1976

The Senate met at 10:00 a.m.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Eternal Father, send us today the wisdom to judge correctly. Strengthen the weak that they too may pursue justice and peace. Forge this group into one mighty people, strong in thy guidance, so that this state will be strengthened and renewed by thy grace. Strengthen our faith in the eternal and enduring values of our heritage. Amen.

The Pledge of Allegiance was led by Charles Mowrey.
Sen. Ferdinando presiding.

ENROLLED BILLS AMENDMENT

HB 22, relating to the medical-dental staff of New Hampshire hospital. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. LAMONTAGNE: This amendment corrects an internal reference to the bill.

Enrolled Bills Amendment to HB 22

Amend section 4 of the bill by striking out lines 5 through 7 and inserting in place thereof the following:
established by RSA 135:6-a, I, (a), as inserted by section 1 of this act, and one of said classified dentists to the position of senior physician/psychiatrist/dentist established by RSA 135:6-a, I, (b), as inserted by section 1 of this act.

Amendment adopted.

ENROLLED BILLS REPORT

SB 17, providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets.

HB 6, improving the benefits under the present health plan and increasing the state's

payment of group hospital and medical insurance for state employees and certain university system employees and making an appropriation therefor.

HB 24, making an appropriation for capital improvements.

HB 38, amending RSA 173-A, the dangerous sexual offenders law.

HB 46, increasing the salary of the director of state police and making an appropriation therefor; and establishing a joint legislative committee to study the inequities in the salary ranges of unclassified state employees.

HB 49, providing for free distribution of the 1975 general court journals to members thereof.

SB 35, relative to the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities.

HB 10, making an appropriation to reimburse mental health facilities under the medicaid program.

HB 50, providing that town meeting day shall be the second Tuesday in March and providing that the New Hampshire presidential preference primary shall be first in the nation.

HB 47, providing for the payment of wages by electronic fund transfer.

HB 48, relative to changing the rate of the tobacco sale discount.

Sen. Lamontagne for the Committee.

Adopted.

COMMITTEE OF CONFERENCE REPORTS

HB 7

The committee of conference to which was referred House Bill 7, An Act defining the responsibility for the planning of sewage projects in the Winnepesaukee River basin; defining project allocation under P.L. 92-500; and making an appropriation for algae control in surface waters of the state, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as passed by the Senate, and pass the bill as so amended:

Amend section 4 of the bill by striking out same and inserting in place thereof the following:

4 Appropriation for Algae Control in the Surface Waters of the State. In addition to any other sums appropriated there is hereby appropriated to the water supply and pollution control commission the sum of \$10,000 for the fiscal year ending June 30, 1976 and \$30,000 for the fiscal year ending June 30, 1977 for the purposes of RSA 149-F, the control of algae and other aquatic nuisances. The said sums shall be a charge against general funds and shall not be used, transferred or expended for any other purpose and shall not lapse.

Conferees on the Part of the Senate.

Sens. Stephen W. Smith, Sanborn and Blaisdell.

Conferees on the Part of the House.

Reps. LaMott, Ainley, Flanagan and Oleson.

Sen. S. Smith moved the adoption of the committee of conference report.

Sen. S. SMITH: The only change in the bill from the Senate version is in regards to algae control and the appropriation was reduced in the second year from \$50,000 to \$30,000 which should be enough with the additional \$10,000 that is in this which will not lapse plus another \$4,000 to handle the minimal amount of algae control that is anticipated through the summer. It was hoped to put this through on a biennial basis but the House brought up the point that we will be here in January to see how the operation of funds is at that time. I hope the Senate will go along with the adoption of the committee of conference report.

Adopted.

HB 44

The committee of conference to which was referred House Bill 44, An act extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance and control of expenditures and providing for the continuation of the coho salmon program, having considered the same, report the same with the following recommendations:

That the house recede from its position of nonconcurrence with the senate amendment, and concur with the senate amendment, and

That the senate and house adopt the following new amendment to the bill as passed by the senate, and pass the bill as so amended:

Amend the title of the bill by striking out same and inserting in place thereof the following:

An Act

extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance; amending the provisions relative to fish and game control of expenditures; and providing for the continuation of the coho salmon program.

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Repeal. RSA 206:36 relative to the unexpended balance of the fish and game fund, is hereby repeal.

Amend section 5 of the bill by striking out same and inserting in place thereof the following:

5 Fish and Game Expenditures. Amend RSA 206:37 by striking out said section and inserting in place thereof the following:

206:37 Control of Expenditures. The commission shall prepare and submit the proposed budget and govern the financial policies of the department, subject to the operating budget bill for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director. In the event sufficient funds are not available, the commission shall utilize the authority under RSA 6:13-a in anticipation of estimated revenues.

6 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate.

Sens. Trowbridge, Saggiotes and Blaisdell.

Conferees on the Part of the House.

Reps. LaMott, Maynard, Stimmell and Griffin.

Sen. Blaisdell moved the adoption of the committee of conference report.

Sen. BLAISDELL: This bill came back to us basically in the same form that it left the Senate with the exception of 206:37, the amendment, Control of Expenditures. What we are telling the Fish and Game Commission is that we want them to take an active part in the preparation of the Fish and Game budget so that they will be more knowledgeable about it. It was a unanimous vote in the committee of conference.

Adopted.

HB 26

The committee of conference to which was referred House Bill 26, An Act relative to the organizational convening of the general court, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

Conferees on the Part of the Senate.

Sens. Downing, Monier and Stephen W. Smith.

Conferees on the Part of the House.

Reps. Tucker, Ryan, Lyons and O'Connor.

Sen. S. Smith moved the adoption of the committee of conference report.

Sen. S. SMITH: The committee of conference met. I was the only Senate member there due to the fact that the other two conferees gave me their proxy. When the House conferees heard that I had the proxy from Sen. Monier they felt that there must be a certain amount of minimal agreement within the Senate. The House receded from its position and the bill is identical as it passed the Senate.

Adopted.

HB 16

The committee of conference to which was referred House Bill 16, An Act legalizing the regular town meeting in the towns of Rye, Lee, Exeter, Enfield, Alton and Madbury; legalizing several town meetings in the town of Woodstock; legalizing the special town meeting in Newmarket, legalizing a meeting of the Belknap county convention and authorizing the town of Carroll to borrow money to meet operating

expenses, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as passed by the Senate, and pass the bill as so amended:

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton; naming the state owned bridge in Hooksett, the "Hooksett Memorial Bridge"; and redefining the term "open space land" as used in the current use taxation law.

Amend the bill by striking out all after section 12 and inserting in place thereof the following:

13 Hooksett Memorial Bridge. Pursuant to RSA 4:43, the town of Hooksett is authorized to dedicate in the memory of the residents of Hooksett who gave their lives in service of their country and to rename the state owned bridge for vehicular traffic which spans the Merrimack River, located on Main street between routes 3A and U.S. route 3 in said town, the "Hooksett Memorial Bridge."

14 "Open space land" Redefined. Amend RSA 79-A:2, VII (supp) as inserted by 1973, 372:1 by striking out said paragraph and inserting in place thereof the following:

VII. "Open space land" means any or all farm land, forest land, wetland, recreation land, flood plain, or wild land, as defined by this section, and any currently undeveloped or unoccupied land that is so designated by action of a town or city for a period of 10 years or more, provided however, that "open space land" shall not include any property held by a city, town or district in another city or town for the purpose of a water supply or flood control for which a payment in lieu of taxes is made in accordance with RSA 72:11.

15 Effective Date. Section 14 of this act shall take effect March 31, 1976 and all other sections of this act shall take effect upon its passage.

Conferees on the Part of the Senate.

Sens. Monier, Poulsen and Preston.

Conferees on the Part of the House.

Reps. Hanson, Greene, Davis and O'Connor.

Sen. Monier moved the adoption of the committee of conference report.

Sen. MONIER: The committee of conference was unanimous in this. There wasn't any disagreement at all. It was the addition of one other thing that assisted the town of Auburn and I think Londonderry and it was checked out by all the members on the committee of conference and I found nothing wrong with it and I urge the Senate to accept it.

Adopted.

HB 21

The committee of conference to which was referred House Bill 21, An Act making an appropriation for operating and capital expenses of the department of health and welfare, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend paragraph IV of section 1 of the bill by striking out same.

Amend the bill by striking out section 13 and inserting in place thereof the following:

13 Lapse of Emergency Appropriation for Aid to Families with Dependent Children. All portions of sums appropriated under 1975, 505:20 for which the authority to expend has not been received from the governor and council shall lapse upon passage of this act.

14 Emergency Appropriation for Aid to Families with Dependent Children. It is hereby declared to be the intent of the general court that the appropriation made by 1975, 505:1.05, 03, 07, 02, 01 (assistance payments, AFDC) is sufficient for and shall be expended at a rate necessary to provide eligible recipients with a reasonable subsis-

tence compatible with decency and health. The director of the division of welfare shall provide for the payment of individual grants at levels not less nor greater than the agency's published standards as applicable on July 1, 1975. In the event the director of the division of welfare finds that said appropriation is not sufficient to expend at such a rate, the director of the division of welfare shall request the commissioner of health and welfare to review all departmental appropriations and to determine which appropriations and what amount in any appropriation for fiscal year 1977 is available for transfer to the division of welfare, and within the established transfer procedures and restrictions, the commissioner of health and welfare shall transfer, to the extent that they are available, such sums as may be necessary to fund the aid to families with dependent children program. If the director of the division of welfare, after consultation with the fiscal committee, finds that such sums transferred are not sufficient to expend at such a rate, the director of the division of welfare shall request the governor, with the approval of the council, for the authority to expend the sums needed for said purpose at such a rate. There is hereby appropriated for said purpose \$1,530,000 in fiscal year 1977. The sum appropriated shall not be transferred or expended for any other purpose and shall not lapse until June 30, 1977. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

15 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate.

Sens. Brown, Trowbridge and McLaughlin.

Conferees on the Part of the House.

Reps. Scamman, Nighswander, Goff and Belcourt.

Sen. Trowbridge moved the adoption of the committee of conference report.

Sen. BROWN: In the original bill I explained the capital appropriation and Sen. Trowbridge explained the operational. There is no change in the capital and I will defer to Sen. Trowbridge on the operational.

Sen. TROWBRIDGE: You will recall there was a direct appropriation of \$1,000,000 for the AFDC program, Aid to Families with Dependent Children, for the amounts needed to cover the last quarter of 1977 which we know that we did not budget last year. Because of the fact that we have previously been funding AFDC with a contingency fund. In the contingency fund at the present time there is \$782,000 left over, unappropriated, from the last biennium. The Governor, Arthur Drake and myself thought it would be wiser if we took the AFDC money and put it into the what we call the footnote, the contingency fund, and made enough available for spending in March of 1977 on a contingent basis rather than a direct appropriation basis so that the Welfare Department will have to go through the process which is now setup in the budget of coming to the fiscal committee and go through Governor and Council saying we need more money to run this AFDC program. Hence you will see in the amendment to HB 21 that we worked up in committee of conference. Section 13 says Lapse of Emergency Appropriation for Aid to Families with Dependent Children, that lapses the \$782,000 now not appropriated in the footnote. Next section, you add \$750,000 instead of a million to the \$782,000 and you come up with a figure of \$1,530,000 which will be in Section 14 which will be the new footnote and in that footnote we put the compulsion under the Department of Health and Welfare, Director of the Division of Welfare, that before he comes in to tap the contingency fund he has to go through the process of reviewing all departmental appropriations and determining which appropriations and in what amount for fiscal '77 is available for transfer into the AFDC program. Only after he goes through the transfer process can he then come to the fiscal committee and Governor and Council and then the availability of \$1,530,000 which will match to about \$3,200,000 in federal funds would be available. This is a way of handling the 3 million dollars in a different way. Cutting it from a million to \$750,000, having it a contingent appropriation so that if there is any drop in revenue estimates or anything else that may be questionable, we have not mandated this particular expenditure but made it available on a contingency basis. This is more acceptable to the Governor, it is completely acceptable to Arthur Drake and myself and to the Senate Finance Committee and to the Committee of Conference. It is just another way of handling it and it does save us \$250,000 in direct appropriation and I recommend its passage.

Adopted.

HB 2

The committee of conference to which was referred House Bill 2, An Act making a supplemental appropriation to the operating budget of the secretary of state for ex-

penses related to the decennial renewal of voluntary corporation charters, having the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amended the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation for Printing and Binding. In addition to any other sums appropriated for the secretary of state the sum of \$20,000 is hereby appropriated for the 1977 fiscal year follows:

Legislative services division:

printing and binding for

general court

\$20,000

The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Conferees on the Part of the Senate.

Sens. Brown, Roger A. Smith and McLaughlin.

Conferees on the Part of the House.

Reps. Kidder, Ward, Stevens and Boucher.

Sen. Brown moved the adoption of the committee of conference report.

Sen. Brown: The only change in the bill is the Senate appropriation \$30,000 for the printing of the red books, the House appropriated \$10,000, the committee came to a compromise of \$20,000. So with the \$10,000 appropriation that is already in the budget plus the \$20,000 gives them \$30,000 to print the red book.

Adopted.

LAID ON THE TABLE

Sen. Jacobson moved the introduction of Senate Resolution No. 2.

Sen. JACOBSON: This resolution deals with the whole question of what constitutes a Senate meeting. The resolution is a request for a court opinion as to what in fact constitutes a Senate meeting. In a editorial on May 19, 1976, The Concord Monitor charged that the Senate had violated Part 2, Article 8 of the Constitution on the Right-to-Know Law. Part 2, Article 8 states very simply that the gallery of the legislature shall be open to the public so long as they behave decently and I, with my knowledge as a country boy, understand it to be that part up there as far as the Senate is concerned yet the Concord Monitor did accuse the Senate and me of having violated the Constitution with regards to a meeting that was held in the Council Chambers under the direction of the Governor to which senators received invitations by word of mouth. I would like it stated clearly that no officer of the Senate had any role whatsoever in organizing this meeting. But since the charges by the Monitor are of a serious matter, I as the President of the Senate have decided to seek an advisory opinion from the Supreme Court of New Hampshire. You have the proposed advisory opinion before you. I would like to say that there has been a lot of irresponsible talk and charges as to what constitutes a Senate meeting. I for one of course cannot believe that the meeting held in the Council Chamber constituted a meeting of the Senate. However, I am willing to ask the Supreme Court to delineate just what are the constitutional and statutorial requirements for a meeting of the Senate. I believe that this will serve as a sufficient guide for me as long as I hold the office of Senate President and will clarify the responsibilities for those who come after me. You will also recall that early in the 1975 session the question was raised as to what my role was when I am acting Governor and the Concord Monitor again attacked the Senate for asking for an opinion. As you all know the Supreme Court held up the view of the Senate with respect to that. I think that we ought to come to grips with this matter and decide once and for all so that everybody knows just exactly what a Senate meeting is and not be put to this kind of public announcement which in my view does not bare any relationship to the facts. I have never had any intention to exclude the public from any legal proceeding of the Senate. I am, however, easy about those meetings involving members of the Senate which are essentially out of my control. To be charged with a violation in the manner in which the Concord Monitor did reflects negatively on each member of the Senate. I am sure that each one of you would want to support public scrutiny of all legitimate Senate meetings. With this in mind, I ask your support for adopting the resolution that is before you. In this way at least we shall have some sort of guideline for the future.

Sen. PRESTON: I think this resolution lends further credence to already ridiculous

and over exaggerated situation. I think that the Senate President was unjustly attacked for something that he had nothing to do with. I couldn't believe it when the reporters gathered around the Senate President in the hallway following this meeting. Three or four of us were sitting here and Marshall Cobleigh came in casually asking us if we would like to meet members of the Rooney family in the Council Chambers. I think we reacted as if we would have if he had said would you like to come out and meet my wife. We went down to the Chambers and sat down and someone evidently without authorization closed the doors to this meeting and the next thing I hear is that we have endorsed a secret meeting and violated the right-to-know law. The last time I sat in a secret meeting in the Senate I was ousted from my seat so I am opposed to it. I think it is utterly ridiculous to further credit such reporting by going to the Supreme Court for such a decision. I think it was just over-emphasized in the beginning and because someone without authorization from the Senate President or anyone else closed the doors. I think it was explained very clearly by Senator Jacobson and I think if anything he has gone out of his way to see that doors of the Senate have always been open. In that particular instance, I think the members of the press did over react.

Sen. MONIER: Would you agree with me Senator that sometimes horse flies have to be killed with sledge hammers and I think that this resolution does exactly that and I am going to support you on it but I raise the same questions as Senator Preston does and that is, aren't you lending some prejudice to some very irresponsible reporting in the first place by doing this.

Sen. JACOBSON: I don't know that I am doing that. What I am trying to do is establish in the same way that we established the right of the Senate President to sit in his Senate seat so that it is once and for all clarified just exactly what constitutes a Senate meeting. It is in that interest that I have so that we are free from this kind of harassment that both of you have spoken to. However, if the Senate does not wish to go to that position then they can't. It is my view that sometimes we have to take the bull by the horns and find out just exactly where we are. Since the Concord Monitor surely is not going to concede one inch no matter how unjustly we may say the accusations were. Therefore I think it ought to be clarified not so much for the Concord Monitor but for the public because the editorial on May 19 directly accused the Senate and its leadership of violating the law. It is the public that I am concerned about, that they know. If we made an error I am the first one to acknowledge the error.

Sen. LAMONTAGNE: Don't you feel you have made your point by making a rebuttal and the people will know about it. You still feel you want to send it to the courts for a ruling?

Sen. JACOBSON: I will say you will probably have an interesting editorial in the Concord Monitor if we don't settle the issue. They might say that we were afraid to take the bull by the horns and go to the Supreme Court because we were afraid of it. I'm not afraid of it.

Sen. R. SMITH: I rise in support of the Senate Resolution 2. Sen. Jacobson has brought up a valid point. I wish to make it clear that I did not attend the meeting the other day and I do not know what went on within that chamber. I would also like to state that this has happened before, it happened the other day and it will happen again in the future unless we do adopt Sen. Jacobson's resolution and have this issue clarified. I for myself would like to know whether or not a gathering of 13 senators in my front room is considered conducting public business by the Concord Monitor. I would like to know if a gathering of 13 senators at a restaurant in town is also considered the same as the Concord Monitor seems to think it is. I think Sen. Jacobson raises a valid point.

Sen. MONIER: As I stated I rise in support of the resolution. I still feel quite frankly that you are lending prejudice to irresponsible reporting. I learned a long time ago that the more frequent you do that the more frequently the irresponsibility remains. Usually if you ignore them they sometimes fade away. In this particular case, this kind of news media reporting has become a sensationalism form of under the guise of being news reporting and informing the public and primarily is a generation of something that they wish to make an issue of rather than facts that exist. It is on that basis that I support the resolution. To be quite blunt about it, I was in the Chambers but I was what they call on the British Islands in the water closet and as I came out of it I was asked if I would like to meet somebody. Being a politician I like to meet anybody. They might move into my district sometime and so I would like to find out who they are and so I went. I don't know why the doors were closed and don't particularly care. I've had senators at my home for barbecues. I've been to other senators homes; we've been to parties; we've been to social events and the invitations came through the mail, sometimes by voice, sometimes by letter. I don't consider any of these being open to the public unless

somebody invites the public. But I do recognize that the wire services as well as the Concord Monitor as well as the Union Leader and other reporting aspects, many times create sensationalism because they can't find anything else to report and I think in this particular case this is exactly what happened. I know that I was in the hall standing and listening to this particular argument or debate that was going on between the reporters and the Senate President and one of the reporters asked him if I was at the meeting. I'm very flattered if they think I'm that important so let me inform them that I was at the meeting and they could have found that out by asking me. I just feel that somewhere along the way we just have to protest this kind of irresponsibility. If Sen. Jacobson feels that this resolution will assist in curtailing some of this kind of nonsense and irresponsibility then I support it. To be quite frank with you Senator, I don't think it will curtail it at all. I think that has been bred in what has been going on for years.

Sen. DOWNING: I rise in support of the pending resolution. I question the necessity of it but I would yield to the President. If he feels this is an important question to have decided then I think it should be decided and I urge you to support the motion.

Sen. S. SMITH: I rise also in support of the motion. I was at that meeting. I felt no compunctions of going to it and I don't think there was anything illegal about it. I do feel however that the press does have a responsibility in this area. I think because of the right-to-know law and so forth, there must be guidelines and I think that a court decision on this would give the guidelines which are necessary and needed. The kind of attack which was leveled at that meeting, or against that meeting I think makes every senator wonder. If we do go out to lunch as 13 of us and have one other person with us, are we then in session. I don't think we are, I don't think there is any question. The other reason that I would like this to go to the court when I went home on the radio there was talk of a secret meeting. People in my constituency heard about this and they were a little surprised at this secret meeting and what was going on in Concord. I think it was bad reporting and I don't agree with it but I do think the guidelines for our actions can be most appropriately laid out by the Supreme Court.

Sen. BLAISDELL: I was also at that meeting. I was asked if I would like to meet a member of the Rooney family. Being in the sporting field and sports officiating field I felt it was quite an honor to be asked to meet a family of that type. I support the motion and I think it has to be resolved.

Sen. LAMONTAGNE: You all know that I have been in the Senate for 22 years and this is not the first time that we had a gathering and this and that. What has happened here, I think was just a mistake and I don't think the press was locked out. I think if someone had tried the door and was refused then I could say, yes there is a secret meeting. I would like to go back to 1955, 1957, 1959 and other years that I have served, many times a group of us would get together and go down to the Country Club. Just because we got together it didn't mean that we doing any kind of business that the public shouldn't know about. Sometimes we happened to talk about some legislation that was pending. I think the point has been made and there is no reason to go to the court. When it comes to the press, the Senator from the first district will only worry when Laurier Lamontagne's name doesn't appear in the papers. That's the only time I will start asking questions.

Sen. BLAISDELL: You said a mistake was made. I don't think there was a mistake. Do you mean that there was a mistake made or did you want to say that there wasn't.

Sen. LAMONTAGNE: I said a mistake. What I mean by that is the mistake was when the press didn't open the door and got refused.

Sen. BLAISDELL: Are you saying the press made a mistake but not us, is that what you are saying?

Sen. LAMONTAGNE: I said when the press didn't open the door. No, I didn't say that you made a mistake.

Sen. FOLEY: I was here when Marshall Cobleigh came in and invited us to a reception for the Rooney family. My first thought was sure I would love to go down because I needed a cup of coffee and I thought we were going to have one when we got down there. We got in there and the Rooney family was there. I didn't realize that it was exclusively for the Senate. Neither did I realize that no press was to be invited and when we were asked to sit down and did we have any questions most of us sat and listened to what was being said. I did not notice that there was no press there. I have been at meetings before when the reporter who reported our meeting, supposed meeting and I still call it a reception, has come to the door and said I want you people to know inside that I have been refused and at that point many of us have said right-to-know law and he has got to come in unless we are talking about personalities in an executive session. I feel that if he really thought that this was a secret meeting that we

had and someone had told him outside he was not invited I feel that he is big enough and strong enough to have opened the door and said to the people inside is this a meeting, I as the press have not been invited, have been told not to come and I feel you should be on record. He has done that before to meetings that I have been to and I still cannot understand why he didn't do it this time and at least given some of us who really are strong about the right-to-know law the realization that the meeting had been ordered closed by Mr. Cobleigh which many many of us did not know had happened. If Sen. Jacobson wishes to have this done and feels that it will clear the air I cannot see how it will clear the air any- more than the right-to-law does but if this is what he wants than I shall consider voting for it.

Sen. SAGGIOTES: I rise in opposition to the pending resolution with all due respect to the President. The reason I rise in opposition to it is to support the Senate President as well as the other members of the Senate who I feel did absolutely nothing wrong at the meeting. It was not a public gathering; it was not a formal meeting of the Senate or a committee of the Senate and I agree with what Senator Preston said before that by doing so, voting for this resolution we would lend some credence to the charges. I think the charges are absolutely false. I think they are absolutely ridiculous and I think we are wasting our time here and I certainly wouldn't want to waste the time of the Supreme Court in New Hampshire for such a bit of foolishness.

Sen. BRADLEY: I just want to say one word from the standpoint of the judiciary. I don't know if we can tell what response the Supreme Court will feel it can make to this bill. I just want to put you on notice that I think the Supreme Court may not feel they can answer these as fully as we would like them to answer. That is not because the Supreme Court is going to duck any responsibility they have but there are a number of technical doctrines which circumscribe the ability of the Supreme Court to give answer to every question we would like to have answers to. The whole notion of the advisory opinion is a little bit of a strange animal in our jurisprudence and the courts are generally equipped to deal with contested cases and appellate courts to deal contested cases coming up through appeal where all the facts have been adjudicated as to what they are and then they decide what the right law is. We are sending them kind of a mixed bag here where the facts may not necessarily all be adjudicated before them and also where some of the questions may be to abstract and where the courts may feel they are not going to step into something which may turn into some dispute further on down the line. I have no knowledge what the Supreme Court will do with this. I just think we ought to be prepared for the fact that the Supreme Court may not give us nice neat yes no answers and hard and fast guidelines that are going to guide us forever.

Sen. BOSSIE: In line with what Senator Bradley has just said and I do apologize to the Senate for being at a committee of conference hearing and not having the benefit of hearing all the testimony on this. I think the questions numbered 1 and 2 are such that it gives the Supreme Court the opinion that what is stated in the questions as to how the meeting took place is probably subject to dispute in other quarters, I don't know. I would say the only proper question to be presented to them is perhaps No. 3 and that paragraph 2 as well as 1 is such that it is going on the basis that how the meeting did occur is actually what did take place and as we know everyone has a different opinion of factual matters rather than of legal matters. What I am saying is that it would appear the best way we should do this is to divide the question. I think No. 3 would certainly be pertinent and I would suggest that the Supreme Court could answer that one. I think No. 1 and 2 they would skirt over because there are no hearing as to the facts to determine if the trier facts has determined that is how the meeting took place. It sounds very vague I know but I think if we are going to be sincere in asking the Supreme Court a very important question which obviously Sen. Jacobson feels is very important, than that would be the appropriate way to go.

Sen. FOLEY: Sen. Jacobson in this resolution you stated whereas a meeting was held. We were invited to a reception so I can see a great deal of difference between a reception to meet a group of people and an actual meeting. Am I making a play on words, how did you understand it when you went there?

Sen. JACOBSON: I would agree with the connotation that you are giving that it was that the invitations were given as though it were a reception. I simply accepted the word meeting, since a meeting could be a casual meeting as well as a formal meeting. Clearly, as you have spoken, I think the intention and the way the invitation was given it was a reception.

Sen. R. SMITH: Again I rise in support of Senate Resolution 2. Apparently there has been a large turnover here in the Senate or some of us have very short memories. When I said before that this happened once before and it happened this time and it will

probably happen again another time unless we had the clarification I was referring to an incident that happened in 1971, I believe, which to my mind was far more serious. Under similar circumstances a group of senators were invited to a room to meet the then new president of the University of New Hampshire, Doctor Thomas Bonner and that is pure and simple what it was. It was not a public proceeding in my mind at that time and in my mind still it was not a public proceeding. On that particular occasion I don't know who was powerful enough within this state to call the Attorney General, but we had the Attorney General of the State of New Hampshire outside the door, that contained a roomful of senators, banging on that door to advise us to the legality of what we were doing or what we shouldn't have been doing. I think that if we were wrong in any instance it could always be resolved by the court. I never want to attend another meeting under similar circumstances and ever found the Attorney General of the State of New Hampshire outside banging on the door to advise the Senate of the State of New Hampshire and that is why I am supporting this resolution.

Sen. DOWNING: I would like to urge my colleagues that have indicated opposition to this particular resolution to possibly consider supporting it. It may go beyond this resolution in that there may have to be subsequent questions offered to the court. If the Senate President who is a spokesman for this body feels it is important enough to put these questions before the court I think we should be in support of him. It is beyond the borders of our own individual district. In my district if news media was to say I attended a secret meeting the overwhelming reaction I am quite confident would be what was the reporter smacking. I am not concerned with myself individually. I think if he feels these questions are important and it is going to resolve something he should have the support of the Senate.

Sen. JACOBSON: First let me say I brought this to Legislative Services and therefore is not my product. My concern was in No. 1 for example what in fact is the meaning of the Second Part, Article 8. My question is, if the Senate should adopt the motion that is before us, could we then lay it on the table and then maybe you could give some sort of an amendment that would make the question clear so that the Senate would know just what is a meeting under Part 2, Article 8, would that be possible?

Sen. BRADLEY: I would be happy to give it a try although, I don't oppose this and I am hopeful that the Supreme Court will feel that they can give us some useful guidelines but I didn't want it to come out that it would appear the Supreme Court comes back and doesn't answer these things exactly the way we would like to have them and say the Supreme Court is ducking a tough political question. I am not sure that anybody is going to come up with better questions. I think it is the nature of the two branches, the nature of the judicial branch and their powers and as they view their powers and ours that there may not be a perfect way to answer the questions to get perfect answers. I'm not really quarreling and I think we ought to send it over and I hope the Supreme Court will find they can tell us something useful. I think perhaps maybe more useful than us trying to rewrite this at this point would be to submit memoranda containing facts which are hopefully undisputed as to what happened so that the Supreme Court has an actual background to work with. I think that is the best way to insuring the Supreme Court will feel they can give us something useful.

Sen. JACOBSON: Submitting memoranda is of course the normal process in any advisory opinion is it not?

Sen. BRADLEY: Yes, it is although sometimes it never happens and I think the Supreme Court sometimes feels they are left without very much to go on and realize perhaps that what they may be able to say may be inadequate. Even if we give them all the memoranda in the world I think it is still possible the Supreme Court will say look this is not a kind of question which we can give you the nice neat answer that you would like to have.

Sen. JACOBSON: It is also practice that they will ask for the memoranda before they ever issue an opinion, is that not correct?

Sen. BRADLEY: That's correct. Their announcement will be put out as I understand it by the clerk saying memoranda should be submitted by a certain date.

Sen. MONIER: Would you believe as I said in my presentation of my feelings about this that I would feel much more comfortable if it were just question 3 and the reason being is that I do feel it lends credence to those that were responsible in what they stated in the first place. I would feel much more secure in asking just question 3 because I think No. 1 and 2, as I say, are based upon a fact that the question was raised in the first place and I felt very irresponsibly. Therefore I don't like to feel any credence should be given to it at all.

Sen. LAMONTAGNE: I would like to say I am going to vote against this proposal

but I hope that the President will realize that I am not voting against the President I am voting through my own conscious. I have been criticised before for some wrong doing which I was not responsible for. This has happened in the Portsmouth Herald they have taken attacks at me many many times and if they didn't mention my name then I would feel bad about it. I have been criticised for something that I didn't do. I have been criticised on my fat truck bill and in fact the Portsmouth Herald had the wrong meaning of what the intent of the fat truck bill was for. Personally, as a politician we ought to be able to stand on our own two feet and be able to stand the criticisms from any member of the press I don't care who it is.

Sen. BOSSIE: In line with what I said first, if you look at paragraph 1 question No. 1. Here is how I think a question of this sort should be phrased. If a meeting is held at the request of a Governor's aid and to which the aid individually invited members of the New Hampshire Senate is such a meeting subject to Article 8, Part 2nd of the Constitution. That is the way to do it rather than to particularize and factualize things that can be different to different people.

Sen. JACOBSON: I think that is a very good suggestion.

Sen. Bossie moved that Senate Resolution No. 2 be laid on the table.
Adopted.

COMMITTEE OF CONFERENCE REPORTS

HB 32

The committee of conference to which was referred House Bill 32, An Act increasing the appropriation for the bureau of outdoor recreation grant eligibility program, having considered the same, report the same with the following recommendations:

That the house recede from its position of nonconcurrence with the senate amendment, and concur with the senate amendment, and

That the senate and house adopt the following new amendment to the bill as passed by the senate, and pass the bill as so amended:

Amend section 1 of the bill by striking out same and inserting in place thereof the following:

1 Bureau of Outdoor Recreation Appropriation. In addition to any other sums appropriated to the office of comprehensive planning, the sum of \$70,000 is hereby appropriated to the office of comprehensive planning for Fiscal Year 1977. These appropriations are for the purpose of preparing the acceptable State Comprehensive Outdoor Recreation Plan, which plan will comply with federal BOR standards so as to maintain the state's eligibility for federal funds from the Bureau of Outdoor Recreation U. S. Department of Interior grant eligibility program. These appropriations are to be expended as follows for the sole and exclusive purpose of said program and shall not be transferred or expended for any other purpose.

Fiscal 1977

03 Executive Office	
06 Office of Comprehensive Planning:	
02 Bureau of Outdoor Recreation Planning:	
10 Permanent personal services	4,865
20 Current expenses	5,000
30 Equipment	1,200
50 Other personal services	25,135
62 Benefits	4,000
70 In-state travel	600
80 Out-of-state travel	1,000
90 Other expenditures	18,200
Total	\$70,000*
Estimated Source of Funds for Bureau	
Of Outdoor Recreation Planning:	
00 Federal funds	\$35,000
General fund	35,000
Total	\$70,000*

*If the federal grant received is less than estimated, the federal fund appropriations shall be reduced by the same amount as the estimated federal funds are reduced and the total appropriation shall not exceed the reduced totals of funds received from each source.

Amend section 3 of the bill by striking out same and inserting in place thereof the following:

3 Report to Legislative Committees. Commencing on the first day of the fourth month after the effective date of this section, the office of comprehensive planning and the commissioner of resources and economic development shall submit quarterly written reports to the resources, recreation and development committee of the house, the recreation and development committee of the senate, and the fiscal committee of the general court concerning the activities and proceedings of the planning program.

Conferees on the Part of the Senate.

Sens. Sanborn, Trowbridge and Provost.

Conferees on the Part of the House.

Reps. LaMott, Ward, Williamson and Orcutt.

Sen. Sanborn moved the adoption of the committee of conference report.

Sen. SANBORN: Basically, there is practically no change in the bill as passed by the Senate.

Sen. MONIER: I notice there is a change on Section 3. If you will remember I raised the question on the Senate floor with regards to this business of budgetary matters and statutory things reporting their projects to the Senate. I see they have left this in and supposedly have changed it somewhat. Could you tell me what they changed?

Sen. SANBORN: It insures that the Commissioner of DRED is on top and sees that the planning is carried out and so forth.

Sen. MONIER: I am not going to object to this but I want it well understood. I don't believe it's the first time it has been done but we are starting now a precedence in which state agencies which we have statutorily conveyed authority to are now reporting back to a legislative committee which has two affects. The legislature now is going to get into the business of operating government and it is going to increase the areas of mileage for the convenience of those committees that will be up here to receive those kinds of reports and I hope that the Senate recognizes in voting for this that if I am ever back here again I can think of a few agencies I want to have report back to the Senate and the standing committees. Now that we have set the precedence I am sure all of us can find some that we want to have report back like this. We are constantly questioning that when we are gone and out of session the departments and you hear this consistently, go on and do what they please. If we are going to start this business would you agree with me that this is a proper way to do this?

Sen. SANBORN: I agree with the last part of your statement. This report was put in because it has to go to Washington to approve our outdoor recreation program, the overall planning for the state of New Hampshire, so that we may be assured that we will keep getting the grant. We are making sure that the overall planning is in by next March. We want that report in otherwise we loose millions of dollars.

Sen. MONIER: We are now going to put the legislature in the business of operating state government. We now have a competent planning branch which will do the work and the money is laid out; we have a commissioner of DRED who is responsible under the statute that that is in for the state and now we are saying the legislature is going to make sure its in. I will be very blunt about it, its got nothing to do with the commissioner, if the legislature has to check on it we ought to find a new commissioner or change the statutes because if we do not would you agree with me, we are going to get into this and I can think of a dozen other agencies where I would like to have something were they are going to report back to us to. That's my argument it has nothing to do with the bill.

Sen. SANBORN: The committee wanted to insure that this was completed.

sen. MONIER: I'm sorry to take up the Senate's time like this and I want to make it clear for the record and anyone else that is listening on this I am not against the bill; I'm not against the procedures; I think we have done what is proper and I argued for it two years ago when I was down in the Office of Comprehensive Planning simply because DRED does not have a planning agency and we do and there ought to be inter-agency transfer. I just think we have added something and I think it is very important that the legislature is continuously arguing that the executives should not stick their nose into legislative business and I agree. They are arguing that the judicial should not make rulings which are setting policy that is the legislatures responsibility but we are now saying we are going to run dog round on this kind of thing and I am only saying to you that I warn you now that there are going to be some other requests like this and the people that vote on this one I want to see them vote the same way and be consistent right or wrong.

CHAIR: Question is on the committee of conference report on HB 32.

Adopted.

Sen. Monier is recorded as being opposed.

COMMITTEE OF CONFERENCE REPORT ON HB 4

The committee of conference to which was referred House Bill 4, An Act to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance and to decrease grants to community mental health services.

Amend RSA 415:18-a, IV as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

IV. In the case of policies or certificates providing benefits for hospital and medical expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$3,000 per covered individual, and to a lifetime maximum of not less than \$10,000 per covered individual. In this paragraph, covered major medical expenses include the reasonable charges for services and treatment on an in-patient, outpatient or partial hospitalization basis by a psychiatrist, a psychologist, a licensed general hospital, a public or licensed mental hospital, or a community mental health center approved by the division of mental health, department of health and welfare.

Amend RSA 415:18-a, V (b) as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

(b) "Psychologist" means an individual who is certified under RSA 330-A, or under a similar statute in another state, and who is either listed in the National Register of Health Service Providers in Psychology or is a diplomate in clinical psychology through the American Board of Professional Psychologists.

Amend RSA 419:5-a, III as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

III. In the case of policies or certificates providing benefits for hospital expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$3,000 per covered individual, and to a lifetime maximum of not less than \$10,000 per covered individual. If such a policy or certificate is issued jointly with a medical service corporation licensed under RSA 420 or a health service corporation licensed under RSA 420-A, the limit on benefits payable for expenses incurred by any covered individual in any consecutive 12-month period and the limit on lifetime benefits may apply to the total benefits for mental illnesses and emotional disorders provided under such policy or certificate for such individual. In this paragraph, covered major medical expenses include the reasonable charges for services and treatment on an inpatient, outpatient or partial hospitalization basis by a licensed general hospital, a public or licensed mental hospital, or a community mental health center approved by the division of mental health, department of health and welfare; except that such expenses may exclude charges arising from the professional services of a psychiatrist or a psychologist who customarily bills patients directly rather than to a hospital or community mental health center.

Amend RSA 419:5-a, IV (b) as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

(b) "Psychologist" means an individual who is certified under RSA 330-A, or under similar statute in another state, and who is either listed in the National Register of Health Service Providers in Psychology or is a diplomate in clinical psychology through the American Board of Professional Psychologists.

Amend RSA 419:5-a as inserted by section 2 of the bill by inserting after paragraph IV the following new paragraphs:

V. Benefits under this section shall be provided for care and services rendered by those licensed general hospitals, public or licensed mental hospitals, or community mental health centers which have entered into a written contract with the hospital service corporation for the rendering of such care and services to its subscribers.

VI. In the case of care and services rendered by licensed general hospitals, public or licensed mental hospitals, or community mental health centers which have not entered into a written contract with the hospital service corporation for the rendering of such care and services to its subscribers, benefits of not less than seventy-five percent of the benefits enumerated in paragraph I, II, and III shall be provided.

Amend RSA 420:5-a, III as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

III. In the case of policies or certificates providing benefits for medical expenses on a major medical basis, benefits shall be subject to deductibles and coinsurance at least as favorable as those which apply to the benefits for any other illness, provided that benefits payable for expenses incurred in any consecutive 12-month period may be limited to an amount not less than \$3,000 per covered individual, and to a lifetime maximum of not less than \$10,000 per covered individual. If such a policy or certificate is issued jointly with a hospital service corporation licensed under RSA 419 or a health service corporation licensed under RSA 420-A, the limit on benefits payable for expenses incurred by any covered individual in any consecutive 12-month period and the limit on lifetime benefits may apply to the total benefits for mental illnesses and emotional disorders provided under such policy or certificate for such individual. In this paragraph, covered major medical expenses include the reasonable charges of a psychiatrist or psychologist who customarily bills patients directly.

Amend RSA 420:5-a, IV (b) as inserted by section 3 of the bill by striking out same and inserting in place thereof the following:

(b) "Psychologist" means an individual who is certified under RSA 330-A, or under a similar statute in another state, and who is either listed in the National Register of Health Service Providers in Psychology or is a diplomat in clinical psychology through the American Board of Professional Psychologists.

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Grants to Community Mental Health Services Decreased. Amend 1975, 505:1, 05, 03, 04, 01, 02 by striking out same and inserting in place thereof the following:

02 Grants to community mental health services:

90 Grants to community health services*

3,524,045 3,492,048

Total 3,524,045 3,492,048

Estimated source of funds for grants to community mental health services:

00 Federal 85,500 85,500
General fund 3,438,545 3,406,548

Total 3,524,045 3,492,048

*These funds shall not be expended for any other purpose, shall be non-lapsing in the first year of the biennium, and if sufficient funds are not available for both years of the biennium for full implementation, these funds shall be prorated. \$200,000 of the fiscal year 1976 and the fiscal year 1977 appropriations shall be improvement grants for the centers known as Salem, Lakes Region, Monadnock, and Seacoast.

7 Effective Date. This act shall take effect upon its passage.

Conferees on the Part of the Senate

Sen. Louis E. Bergeron, Dist. 6

Sen. John H. McLaughlin, Dist. 13

Sen. C. R. Trowbridge, Dist. 11

Conferees on the Part of the House

Rep. Shirley M. Clark, Straf. 4

Rep. Kathleen W. Ward, Graf. 1

Rep. Robert E. Plourde, Merr. 7

Rep. Henry E. Mahoney, Sull. 6

Sen. Bergeron moved the adoption of the committee of conference report.

Sen. BERGERON: The committee of conference report on HB 4 is a compromise bill. Basically, as you are all well aware, we have pondered over this question for sometime now. We have had all kinds of hearings, reports, you name it we've had it. The reason for the committee of conference was we could not get together on certain aspects. Yesterday afternoon every member of the committee and at this point contrary to my original anticipation of the people on the part of the House conferees, I found them reasonable and for that we are thankful and I think they found us the same way. What we accomplished was we reduced the amount of first year coverage to \$3,000. We have a maximum of \$10,000 and we compromised on two visits in lieu of four would be covered. We took the original Senate Finance amendment into consideration and proposed this within the committee of conference report. We gave Blue Cross/Blue Shield the mechanism to put this into the works. It is nothing more than they have now under the present statute, Chapter 349, or with any of their other contracts. We also agreed on a reduction, this also incidentally was in the original Senate Finance proposal, we took the mental health grant and reduced that by some \$200,000. Psychologists were reinstated in the report on the basis of a little tightening up which alleviates a lot of the fears that some of the people had. The only thing we had problems with was the optional verses mandatory. I won't kid you, some members of the Senate still have the same opinion that it should be mandatory as of optional. I think we did very very well in arriving at some of the give and take of both versions. The committee of conference report is recommending on the basis of a mandatory basis. The simple reason for that is we did not have the votes to do otherwise. It resolved this morning to a situation where we could either go to the mandatory basis or revert back to the original law which no one wanted. I think we have accomplished two things. We have reduced the cost substantially. The Insurance Department is talking somewhere in the neighborhood of 52 to 53 percent however you have to allow for an inter-flationary factor in there. Their 52 - 53 percent relates back to January 1. We will be spending 5 to 8 months before this can get off the ground so we have an inflationary factor there but we have still saved the people of the State of New Hampshire a considerable amount of money and the benefits have been increased substantially and of that we are quite thankful. On that basis I submit the report and leave it to the members of the Senate.

Sen. SANBORN: I understand from what you have stated that this is still mandatory for anyone that is in the group insurance?

Sen. BERGERON: It only applies to group policyholders. It has no barring on individuals. There is still some question as to whether or not a group policyholder can purchase his insurance out-of-state thus avoiding the necessity of putting in the mandatory mental health coverage. This is one of these things that probably in time can only be decided by the Supreme Court.

Sen. ROCK: What does your committee estimate the new package will cost us, the subscriber to Blue Cross/Blue Shield as verses what the old package would cost?

Sen. BERGERON: I cannot give you an exact dollar and cents figure. It depends upon the particular plan these individuals are involved with. The Insurance Department advised us that we should be talking somewhere around 52 - 53 percent reduction in premium cost to the employer or whoever pays the bill. I want to be very careful that we are not making a statement here that people assume they are going to get this fantastic reduction because other things come into play. In discussion this morning with Phil Presley and with the Insurance Commissioner, the Insurance Commissioner stated flat out that whatever Phil said he would stand behind. He will be bringing in Blue Cross/Blue Shield to go over this matter and at this point we have no reason to believe that we shouldn't be looking for the reductions.

Sen. ROCK: Am I not correct that the hue and cry that brought us back for this one day special session was the cost to the subscriber of the mandated mental health coverage. This reduces the cost but do we know what the costs are going to be for the subscriber in the various groups in dollars and cents as verses what they were that caused such a furor that brought us back here?

Sen. BERGERON: The only way I can answer that is you know if I had a particular premium and comparing a particular plan I could give you a particular answer but on the basis of many plans the only thing I can use are percentages. If you had a particular plan that you were paying a hundred dollar premium for under the present statute I would say with the new one you should anticipate paying somewhere around mid 40's, low 40's somewhere around there but there will be a substantial reduction.

Sen. ROCK: Is this 40 to 50 percent that I am not holding you to, is this 40 percent of the increase that you would pay, 50 percent of the increase, or 50 percent of the premium? If your premium was \$100 prior to when we mandated mental health and it went up \$30.00 are you going to pay 50 percent of the \$30.00?

Sen. BERGERON: This area we are talking would be a reduction on the cost of the present chapter, Chapter 349. This is strictly what we are addressing ourselves to, the question of mental health.

Sen. ROCK: Give me a plan and tell me what it is going to cost verses what it cost under the previous law that we had on the books that bugged all those problems?

Sen. BERGERON: The only answer I can give you and the only answer I want to be committed to is exactly the way the Insurance Department gave it to me is this 40 to 50 percent reduction. If you are paying \$100 reduce it anywhere from 40 to 50 percent. If you are paying \$300 on the same basis. If you are paying \$100 reduce it by 40 percent instead of \$100 you will now be paying \$60.00

Sen. MONIER: I think that Senator Rock has raised a couple of good questions. I would like to raise a couple of questions with you if you don't mind which I think reflect some of the thinking of the guy on the street who has some real valid questions about how we operate up here with respect to these kinds of bills. Would you agree with me that we actually came back into the special session because there was a hue and cry with regards to this mandatory cost tacked onto Blue Cross/Blue Shield for mental health. Would you agree with me then that the guy on the street was interested in the cost and why he was mandated to pay it? Would you also then agree unknowns and because they are not here and recognize how this goes back and forth, is it not true that if we do not accept a committee of conference of this type even though its mandated, that we can wind up with the same thing on the books that they called us back in for to change?

Sen. BERGERON: There is no question if the committee of conference report is not accepted that is exactly where we will be.

Sen. MONIER: Would you agree that that in a sense then is telling the man on the street that we sitting here in this Senate are boxed to this point. If we don't accept something like this or a new committee of conference and we go home they are going to be stuck with exactly what they had that called us in here.

Sen. BERGERON: That's correct.

Sen. MONIER: Then in your opinion, have we answered the questions of the guy on the street that brought us back here with this kind of committee of conference?

Sen. BERGERON: The only thing I can tell you from a practical standpoint and I said in my earlier report I thought the committee of conference did an excellent job of tearing some of this down. We negotiated to further reduce the cost. The fact still remains we had a choice to take, we could either refuse to sign the committee of conference report thereby reverting back to Chapter 349 or take this. That was the choice we had.

Sen. MONIER: Would you admit with me though for the record that this Senate within the first two or three days of coming into a Special Session met the challenge that we were called back here by passing a bill which made it nonmandatory?

Sen. BERGERON: There has never been any question in my mind that the Senate has acted responsibly.

Sen. MONIER: Then would you agree with me that we're into this type of a box because that bill has been killed and a new bill has been written which remains being mandatory?

Sen. BERGERON: I don't know what the options are. What the alternatives are?

Sen. MONIER: Would you agree that one of the alternatives would have been to pass the other bill?

Sen. BERGERON: Absolutely. Which we much preferred. We never made any secret of this.

Sen. MONIER: I just did this Senator so we have a matter of record.

Sen. BERGERON: Sen. Rock in answer to your question I now have some figures. Let's take Plan B, I assume these figures are under the current statute, a single is \$16.00, family is \$46.00. Under the mental health bill No. 4 the original House Bill 4, it

reduces a single individual from \$16.00 to \$8.50 for a family from \$46.00 down to \$24.50. That is from Blue Cross/Blue Shield.

Sen. ROCK: The mandated cost or the cost of the mandated provision that brought us back was how much for this plan?

Sen. BERGERON: For a single it was \$16.00 for a family it was \$46.00.

Sen. ROCK: That was the increase on an annual basis?

Sen. BERGERON: Yes

Sen. ROCK: Now what is that figure?

Sen. BERGERON: Now on an individual under House Bill 4 as House Bill 4 originally came to us, it reduced a single from \$16.00 down to \$8.50 per year and a family from \$46.00 down to \$24.50.

Sen. ROCK: That portion of the cost that you are quoting now was only for mental health?

Sen. BERGERON: All strictly mental health.

Sen. ROCK: Do you have any other comparisons for other plans?

Sen. BERGERON: This is the only one that was handed to me. I'm not so sure, I think they have to go before the Insurance Department for approval. I don't know what the Insurance Commissioner will do to this. These are evidently figures Blue Cross/Blue Shield felt would be comfortable with.

Sen. TROWBRIDGE: When they made the original estimates of 2.9 million of being the cost of present Chapter 349, they had in those costs some estimates of how many people would receive Blue Cross/Blue Shield treatment centers such as Beech Hill Farm in Dublin. The testimony is clear that only two to six people at any given time at Beech Hill are from New Hampshire. No way the \$700,000 that they projected in there. In the first three months of benefit application to Blue Cross/Blue Shield under Chapter 349 now and remember HB 4 is half of that, there is only something like \$165,000 worth of claims that have been paid and they had 2 million 9 projected for the year. Obviously there are other claims outstanding but as you look at the incidents of people coming into mental health centers and saying here is my Blue Cross/Blue Shield card, it isn't happening. There is no big overflow. There is no big rush to the mental health centers. I must admit if I were in Blue Cross/Blue Shield's shoes and Sandy Taft's shoes I would say that we need the full 2 million 9 because they don't know the experience, etc. My hunch from seeing the flow of dollars is that the original bill never cost 2 million 9. That HB 4 has to technically cost half or less of whatever the cost of 349 was and therefore you are probably coming down to a cost of the entire insurance group in this state of somewhere around a million for this coverage. It wasn't 2.9 in the beginning it was more like 2 and it is now really probably more like half. I think that when you review these things again, in the bill it says 90 days after the passage the rates have to be reviewed. They will have some experience factors in mind when they do review those rates rather than the guess work that they had when they originally made the 2.9 determination in the Insurance Department. I think that is going to be a saving grace that the \$16.00 or the \$8.50 that you heard here may very well not be anywhere near that and the original cost that was given at the Senate hearings on 349 way back was \$6.00 a year and you are coming very very close now to the \$6.00 a year.

Sen. POULSEN: Sen Bergeron, just to make my own mind clear on this, a year ago when the Blue Cross/Blue Shield rate went up my own family policy which is paid every three months went up like say from \$140 to \$180, a \$40.00 increase, perhaps nearer \$30.00 but some such number. It seems to me that of \$40.00 that probably 80 percent of it was a natural increase Blue Cross/Blue Shield developed because of increased medical costs and the mental health part of it was only maybe \$5.00 in three months, if that is the case what we are talking of now will only be a reduction of possibly half that, in other words \$2.00 or \$3.00 in my case and the rest of it which is pure risen cost, inflationary cost will remain the same. Is that right?

Sen. BERGERON: That is basically correct.

CHAIR: Question is on the adoption of the committee of conference report.
Adopted.

RECESS OUT OF RECESS

INTRODUCTION OF SENATE RESOLUTION

Sen. Foley moved the introduction of Senate Resolution No. 3.
Adopted.

Sen. Foley moved that the rules of the Senate be so far suspended as to allow Senate Resolution No. 3 to be placed on second reading and final passage at this time.

Adopted.

Sen. FOLEY: It is with a great deal of pleasure that I introduce Representative Ruth Griffin who was in charge of the fund drive to allow the Clipper Band to go to Allentown, Pennsylvania to play and I have with me also Sue Badger, Judy Chandler who is Jim Chandler's daughter, the House Clerk, and Kenneth Elliot, he has received recognition from Musical Achievement from the U. S. Marine Corps and is a joint recipient of The Nesmith Scholarship Award in Portsmouth.

SENATE RESOLUTION NO. 3

Whereas, the Lehigh County (Pennsylvania) Bicentennial Committee is sponsoring a Festival of Colonies Band Competition June 13 through 17, 1976, and

Whereas, the participating high school bands will represent each of the thirteen original colonies after selection by their respective Governors and State Music Educators Associations, and

Whereas, the Portsmouth High School Clipper Marching Brass was nominated by the New Hampshire Music Educators Association, and

Whereas, Governor Meldrim Thomson, Jr., on January 24, 1975, endorsed the Portsmouth High School Clipper Marching Brass to represent the Granite State in the competition, and

Whereas, the Portsmouth High School Clipper Marching Brass has been consistently rated as an exceptional marching and musical unit over the past decade, culminating in its capturing top honors in the 1970 Cherry Blossom Festival in Washington, D.C., and ranking in the top third in the 1974 Festival of States competition in St. Petersburg, Fla., now therefore be it Resolved, in the New Hampshire Senate that the Portsmouth High School Clipper Marching Brass enter into the competition with the support and encouragement of the General Court realizing that as was true in the ratification of the Constitution two hundred years ago, it was New Hampshire and its people that have made and will continue to make the difference, and be it further

Resolved, that a fitting copy of these resolutions be prepared for presentation to the Portsmouth High School Clipper Marching Brass.

Senate Resolution No. 3 Adopted.

CHAIR: Sen. Ferdinando I want to publicly express my appreciation to you as our Vice President of the Senate. You have been of considerable assistance to me in helping me with many matters and handling particularly well the Rules Committee and all of its responsibilities so that on behalf of the Senate I would like to present this resolution to you as a token of our appreciation for your work here as Vice President of the Senate.

Sen. FERDINANDO: I appreciate those that are responsible for this. I know that regardless of what happens to me whether I come back or I don't come back again, I have learned from all of you. I think it is better to have served and learnt than not to have served at all.

ENROLLED BILLS REPORT

HB 8, making a supplemental appropriation to the operating budget of the state prison for riot related and other expenses and changing the operating budget of the New Hampshire youth development center.

Sen. Lamontagne for the Committee.

Adopted.

HOUSE MESSAGE

HOUSE ADOPTS COMMITTEE OF CONFERENCE RECOMMENDATION

SJR 1, establishing a special committee to study tax reform at all levels of government.

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

COMMITTEE OF CONFERENCE REPORTS

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

Sen. Brown moved the adoption of the Committee of Conference report.

Sen. BROWN: The committee of conference has agreed to concur with the House amendment. What was paragraph 6 in the original bill which was the State Forest Fire Equipment Pool House which is in the 1975 capital budget was designated to go to Bear Brook Park, it has been agreed to stay with the Senate amendment which relocated it in Concord. That becomes Section 6 and what was Section 6 now becomes Section 8 which is in relation to the Building Energy Utilization Review Project and the words Building Energy Utilization Review Project has been added and the appropriation has not been changed and that is for a state agency, Office Space Study Committee, to work with an agency under the Chamber of Commerce of the United States to check heat loss to state buildings. There is no change in the appropriation.

See House Journal for May 25th.

Adopted.

SJR 1, establishing a special committee to study tax reform at all levels of government.

Sen. Blaisdell moved the adoption of the committee of conference report.

Sen. BLAISDELL: You will notice under (g) and (h) of the conference report that we added six representatives of the general public. What we did is we changed that to have two appointed by the President of the Senate, 2 appointed by the Speaker of the House and 2 appointed by the Governor and Council. The change on (h), the Chairman of the Legislative Council of the New Hampshire Chapters of the American Association of Retired Persons and the National Retired Teachers Association, or his designee which is one person. Before we were having two. I ask that you accept it.

See House Journal for May 25th.

Adopted.

Sen. Monier is recorded as being opposed.

COMMITTEE OF CONFERENCE DISCHARGED

Sen. Bradley moved that the Committee of Conference on **SB 42** be discharged and a new committee be appointed.

Adopted.

The Chair appointed Sens. Foley, Bossie and Jacobson.

COMMITTEE OF CONFERENCE REPORT ON HB 1

The committee of conference to which was referred House Bill 1, An Act making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the title of the bill by striking out same and inserting in place thereof the following:

AN ACT

making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and relative to group 1 disability retirement benefits of the New Hampshire retirement system and amending the estimates of unrestricted revenue in the 1975 operating budget.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Supplemental Appropriation. In addition to any other sums appropriated, the sum of \$978,581 for fiscal year 1977, is hereby appropriated to the state treasurer to be expended as follows:

Fiscal 1977

State treasury:
 Retirement division:
 91 Normal contribution \$978,581

Estimated source of funds for
 retirement division:
 General fund \$978,581*

*Unless the comptroller determines on June 1, 1977 that the estimates of unrestricted revenue under 1975, 505:1.09 will be met, this appropriation shall lapse.

2 Estimated Unrestricted Revenue. Amend 1075, 505:1.09 by striking out said section and inserting in place thereof the following:

	1976	1977
General Fund		
Beer	\$4,230,000	\$4,400,000
Board and Care	5,672,000	8,100,000
Business Profits Tax	25,500,000	30,500,000
Estate & Legacy Tax	6,000,000	6,000,000
Insurance	8,140,000	8,500,000
Liquor	30,664,000	33,000,000
Meals & Room	8,800,000	9,800,000
Greyhound Racing	9,400,000	9,800,000
Harness Racing	2,900,000	2,900,000
Thoroughbred Racing	4,900,000	4,900,000
Telephone	5,535,000	6,000,000
Tobacco	28,450,000	29,325,000
Utilities	2,500,000	1,900,000
Other	8,000,000	8,100,000
Total	150,691,000	163,225,000
Highway Fund		
Gasoline road toll	\$38,409,360	\$39,561,650
Motor vehicle fees	19,452,683	20,028,763
Miscellaneous	1,035,000	1,040,000
Total	\$58,897,043	\$60,630,413
Fish and game Fund		
Fish and game licenses	\$2,100,000	\$2,292,000
Marine gas tax	27,750	28,000
Recovery indirect cost	70,000	70,000
Total	\$2,197,750	\$2,390,000

3 Group 1 Disability Retirement Benefits. Amend RSA 100-A:6 I (b) (supp) as inserted by 1967, 134:1 as amended by striking out said subparagraph inserting in place thereof the following:

(b) Upon ordinary disability retirement, the group 1 member may receive an ordinary disability retirement allowance which is equal in amount to a service retirement allowance if he has attained age 60, otherwise, he shall receive an ordinary disability retirement allowance which consist of: (1) A member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) A state annuity payable until he is eligible for an unreduced benefit under the Social Security Act, which, together with his member annuity, shall be equal to 90 percent of the service retirement allowance that would be payable to him prior to his attainment of age 65 on the basis of his average final compensation and creditable service at the time of his disability retirement; provided, however, that such allowance shall not be less than 25% of the member's average final compensation nor greater than 90% of 1/60 of

such compensation multiplied by the number of years of creditable service the member would have had had he remained in service until he attained age 60; after he is eligible for an unreduced benefit under the Social Security Act, his state annuity shall be reduced to an amount which, together with his member annuity, shall be equal to 90% of the service retirement allowance that would be payable after his attainment of age 65 on the basis of his average final compensation and creditable service at the time of his disability retirement; provided, however, that such reduced disability retirement allowance, together with his primary insurance amount, shall not be less than the disability retirement allowance payable prior to his eligibility for a primary insurance amount.

4 Effective Date.

I. Section 1 of this act shall take effect June 1, 1977.

II. Sections 2 and 3 of this act shall take effect upon its passage.

Conferees on the Part of the Senate.

Sens. Trowbridge, Saggiotes and Blaisdell.

Conferees on the Part of the House.

Reps. Drake, Kidder, Mahoney and Ward.

Sen. Trowbridge moved the adoption of the Committee of Conference report.

Sen. TROWBRIDGE: House Bill 1 was the bill that had the \$978,581 for the pay back to the pension system for fiscal year '76 which was our original bill. You will note that we discussed this when I discussed revenues and expenditures. In discussions with the Governor and I think the Governor has asked to speak to the House in Joint Convention on revenues and expenditures this afternoon, where we have some difference of agreement as to revenues estimates, the Governor has requested that we change the appropriation here so that it comes into fiscal '77 instead of '76 and that as you will note on page 2 of HB 1, it says that unless the Comptroller determines on June 1 of '77 that the estimates of restricted revenue under 1975 budget would have been met this appropriation shall lapse. The point being that we are saying to the administration that we have allocated \$978,000 for the pension pay back but you don't have to pay it unless we are right in our revenue estimate. If we are wrong in our revenue estimate then you can let it go another year. Of course by June 1 of 1977 you will be back in session and it will all be rehearsed but it does make the Comptroller able to make the payment to the pension system if we meet the total of our revenue estimates. This was an accommodation between the Governor's office and Arthur Drake and myself and others. I see nothing wrong with it, the money doesn't have to be paid now. It doesn't matter if it is paid now or in June of '77 so long as we know that the obligation is there. In order to then clarify what the revenue estimates are Section 2 of the bill puts in, as you will see in the committee of conference report, just as we did in the last budget, puts in what the revenue estimates are of joint House and Senate Finance Committee so that we have stated that this is what we will do and the totals for the biennium are what we are talking about. The total for any single item, they go up and down but the total of \$150,691,000 in '76 which we are going to make anyhow and \$163,225,000 in the second year is what we are saying is our best judgment. Either way the Governor is satisfied that by making this appropriation of \$978,000 contingent and by the thing we did today on SB 21 which had to do with the AFDC footnote in contingency, these things have been made contingent instead of mandatory hence the administration has some flexibility. In the committee of conference we received reports from the actuary that there has been a change in the tax law, the federal tax law, that gives a tax break to our employees who are on disability benefits. In order to give our employees already on disability the tax break we have to enact Section 3 which is really a lot of gobble which I don't pretend to understand and I will admit it and don't question me on it but it is what makes us conform to the federal tax law so our employees could get the tax break. That is what the committee of conference on HB 1 is all about.

CHAIR: Question is on the adoption of the committee of conference report.

Adopted.

COMMITTEE OF CONFERENCE DISCHARGED

Sen. Trowbridge moved that the Committee of Conference on HB 22 be discharged and a new committee be appointed.

Adopted.

The Chair appointed Sens. Brown, Sanborn and McLaughlin.

Sen. S. Smith presiding.

TAKEN FROM THE TABLE

Sen. Jacobson moved that Senate Resolution No. 2 be taken from the table.
Adopted.

Sen. JACOBSON: Following our discussion this morning regarding the resolution that called for an advisory opinion in Supreme Court on what constitutes an official meeting of the Senate, the resolution was revised so as to ask the question not with regards to a specific day but to ask the question in a more constitutional manner. I want to express my appreciation to Senators Bradley and Bossie for working out the wording. It has been worked over and I think in better shape so that we might get a clear answer from the court. Sen. Bradley tells me that there is always the prospect of not getting a clear answer but that is the nature of the judicial process I presume at certain times. I would ask the members of the Senate to go along with introducing this resolution.

INTRODUCTION OF SENATE RESOLUTION

Sen. Jacobson moved the adoption of the motion on the introduction of Senate Resolution No. 2.

Adopted.

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow Senate Resolution No. 2 to be placed on second reading and final passage at this time.

Adopted.

Senate Resolution No. 2
requesting an opinion of the supreme court
relative to meetings of the senate.

Whereas, Article 8th of Part Second of the Constitution of New Hampshire requires the doors of the senate gallery to be kept open with certain exceptions; and

Whereas, chapter 91-A of the Revised Statutes Annotated applies to "public proceedings" of the general court; and

Whereas, a reception was held on May 18, 1976, at the request of Mr. Marshall Cobleigh, an aide to Governor Meldrim Thomson, Jr., and to which Mr. Cobleigh individually invited members of the New Hampshire senate; and

Whereas, one or more newsmen were allegedly barred from said proceedings and have challenged such exclusion as violative of Article 8th of Part Second of the Constitution and chapter 91-A of the Revised Statutes Annotated; and

Whereas, similar meetings may be challenged by other individuals and by members of the New Hampshire senate in the future;

Now, Therefore, Be It Resolved by the senate that the justices of the supreme court be respectfully requested to give their opinion upon the following important questions of law;

1. Under what circumstances, if any, would a gathering held outside the senate chambers at the request of a public official other than a member of the senate, at which members of the senate attend and at which no legislative action is proposed or taken, be a meeting subject to Article 8th of Part Second of the Constitution of New Hampshire?

2. Under what circumstances, if any, would a gathering held outside the senate chambers at the request of a public official other than a member of the senate, at which members of the senate attend and at which no legislative action is proposed or taken, be a "public proceeding" of the general courts defined in RSA 91-A:1, 1?

3. What constitutes a "public proceeding" of the general court as defined by RSA 91-A:1, 1?

Further Resolved that the clerk of the senate be instructed to transmit to the clerk of the supreme court 10 copies of this resolution.

Senate Resolution No. 2 adopted.

ENROLLED BILLS REPORT

SB 50, relative to property tax exemptions allowed to surviving spouses and widows of veterans and establishing the termination date of Viet Nam conflict for veterans' exemption purposes.

Sen. Lamontagne for the Committee.

Adopted.

INTRODUCTION OF SENATE RESOLUTION

Sen. Jacobson moved the introduction of Senate Resolution No. 4.

Sen. JACOBSON: A great deal of concern has been expressed by a number of legislators both in the House and in the Senate with respect to the policymaking function of the executive council whereby the net effect of that policy has been to act as a legislative body. No one seems to really know what the answers to the question are. Just how far can the executive council go in making statewide policy? Therefore in order to get the machinery going on this Sen. Bradley and myself have introduced this resolution so that we would get the sense of the Senate with respect to this matter and to proceed in making a study of it and reporting to the next session of the legislature. We in fact would be clear as to just what the role is and I think the public would like to know just what the role is. I speak of several policy decisions that have been made recently by the executive council and which were in my opinion at least entering into the legislative branch. After all, we are a tripod type form of government where the executive branch is to execute the law, the judicial branch is to interpret the law and the legislative branch is to make the law. When we set policy which in effect are legislative decisions I think we need to have a clarification so what this committee does is that.

Sen. SAGGIOTES: Did you consider having this as a joint House/Senate resolution?

Sen. JACOBSON: We did not since we thought that it was too late to go through that kind of legislative process. We limited it to the body that could make the decision with respect to this matter.

Sen. ROCK: Do I understand that in drafting this resolution that the Senator from the fifth district and the Senator from the seventh district feel that perhaps this Senate has been lax in exercising its authority and has not perhaps taken the leadership role that it should have in certain instances and has left the door open for the Governor and Council to make these policy decisions that we should be making in here?

Sen. JACOBSON: I don't think I want to insinuate the legislative branch into that position. However one of the problems is the same kind of problem that we get into with the federal government where the executive branch takes onto itself by interpretive means powers. In the previous legislative sessions which I have attended, I do not recall a policy, statewide policy decision that was made by the Governor and Executive Council but if you would refresh my memory I would be glad to relate to that.

Sen. ROCK: Do you also share the concern of some that perhaps some of our department heads are also taking on rule-making authority that really in essence belongs with the legislative branch and are passing rules and promulgating regulations that have the effect of law were not the intent of the legislative body?

Sen. JACOBSON: I have seen examples of that. Most recently with the Department of Revenue Administration and in order to at least have legislative authority I brought in SB 61 but certainly that is also happening and I think part of the problem is that we do not have at least the possibilities of continuing legislative oversight. One of the things that I believe should happen is that in order for us to function better is to have continuing legislative oversight.

Sen. ROCK: That poses a very interesting thought, continuing legislative oversight. Understanding that there has been strong statewide opposition to an annual session and that at \$200 a biennium it might be a little much to expect us to be full-time legislators, would you have in mind some special way in which we might come to the conclusion of this Senate that would mean that we could come back if there was the need for that legislative oversight?

Sen. JACOBSON: Yes I have that in mind and I have spoken to you about it.

Sen. TROWBRIDGE: In your opinion, what is the legal effect at this point of a policy statement made by Governor and Council? What is the legal effect of a policy declaration?

Sen. JACOBSON: It would depend upon which policy declaration. If it was one in which they could then respond for example with the approval of some contract or take some executive action on, it could be quite effective. Furthermore, once having established a policy, then they could make decisions that are congruent to that policy.

Sen. TROWBRIDGE: But a broad policy issue such as nuclear plants or something like that would not normally be felt to be privy of anyone other than the legislature plus the Governor signing a bill.

Sen. JACOBSON: I would say that is the way it would be legally established. The net effect of that might be by enunciating the policy they could in effect, at whatever points they can be effective, they could then say look we have established this policy, we will

then try to effect it in this manner. The net effect would be to exclude the legislative process from the decision-making.

Sen. BRADLEY: I want to rise briefly in favor of this resolution. In response to Sen. Rock's question about the implication being that if the legislature chooses not to act whether by design or through neglect that this in itself somehow enlarges the powers of another branch of government is certainly untenable proposition. If the Governor and Council are without power to in effect pass a law of general application throughout the state, they are without power no matter what the legislature decides to do or not to do just as we are without power to try cases and convict people for the commission of crimes which is clearly a judicial power. I feel that there may well be without regard to the merit on any particular issue, there may well have been recently a situation where the Governor and Council have over-stepped their bounds and whether or not the policy statement they might have declared is a good one whether or not I might agree with it, I don't think as a legislature we can sit by and let that happen without at least taking a very close look at it which is all we are asking to do here and then once we have taken that close look at it to determine how to resolve the situation if in fact we conclude that the Governor and Council has gone too far.

Adopted.

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow Senate Resolution No. 4 to be placed on second reading.

Adopted.

Senate Resolution No. 4
establishing a committee to study the making of
state policy by the governor and executive council

Whereas, the governor and executive council have adopted a "Policy on Employment or Appointment of Elected State Officials" effective March 3, 1976; and

Whereas, such policy appears to be an exercise of legislative policymaking by the executive branch of government; and

Whereas, such policymaking appears violative of Article 37th of Part First of the Constitution of New Hampshire;

Now, Therefore, Be It Resolved by the senate that there be established a committee which shall consist of 5 senators appointed by the president of the senate, which shall study the role and function of the governor and executive council with regard to the establishment of state policy and which shall report its findings and legislative recommendations to the senate on or before December 1, 1976.

Senate Resolution No. 4 Adopted.

HOUSE MESSAGE

HOUSE ADOPTS COMMITTEE OF CONFERENCE RECOMMENDATIONS

HB 44, extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance; amending the provisions relative to fish and game control of expenditures; and providing for the continuation of the coho salmon program.

HB 16 legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton; naming the state owned bridge in Hooksett, the "Hooksett Memorial Bridge"; and redefining the term "open space land" as used in the current use taxation law.

HB 7, redefining the responsibility for the planning of sewerage projects in the Winnepesaukee river basin, defining project allocation under P. L. 92-500; and making an appropriation for algae control in the surface waters of the state.

HB 26, relative to the organizational convening of the general court.

HB 21, making an appropriation for operating and capital expenses of the department of health and welfare.

CORRECTION

SB 57, Sen. Jacobson's name was added as a sponsor. It was inadvertently left off at time of printing.

RECESS
OUT OF RECESS

COMMITTEE OF CONFERENCE REPORTS

SB 42, relative to the dissemination of hard-core pornographic materials.

Sen. Foley moved the adoption of the committee of conference report.

Sen. FOLEY: The Senate receded from the original bill and voted to adopt the old House Bill 999 with the understanding that both the Judiciary Committee in the House and Senate would be get together so that hopefully a better bill will be presented in January.

Sen. BRADLEY: For the purpose of legislative history, I would like to state that I was on this committee of conference originally and did not feel I could agree to this proposal. I don't rise to oppose it particularly but I do rise to express a dissatisfaction with Section 6, entitled Statement of Legislative intent, and I want to say that the intent is a good one which is that the police when they prosecute for obscenities should not go after the clerk in the bookstore who has no real say over what the bookstore sells and if they objected to what was being sold they might well lose their jobs. That is what Section 6 is trying to say, that the police should not go after that lonely clerk, it should go after somebody who is in a position of management and control. The reason I refused to sign is that I don't think it states it in clear enough terms to satisfy me. I would like to see the exception spelled out in unequivocal terms that you should not prosecute that person. I do want it understood for the purpose of legislative history that is what this section is intended to accomplish.

Sen. ROCK: Your concern is that should an employee be instructed by the employer to work from 8 to 5 and to wait on customers in the bookstore and the books for sale over which the employee has no control whatsoever must according to the employer's wishes be sold that there should in no case be prosecution of the employee because of his willingness to conform the mandate of the employer and having no control over what is sold as matter?

Sen. BRADLEY: That is precisely my concern and I think it is outrageous that the police would even under the existing law without this on the books, would single out the lonely clerk as the one to make an example of when clearly there is someone behind him who is in control and authority.

Sen. ROCK: Then realizing as you must I am sure Senator and as I do and others in this member body do, that there are people who are seeking employment, who want to work, who apply for a job for instance at a radio station and might have to announce for a particular brand of beer and they might not want to drink beer but to prosecute them for drinking beer would be unthinkable because part of their duty would be to announce for the sale of beer is really not responsible legislation. Is that not true?

Sen. BRADLEY: I agree full-heartedly.

Sen. ROCK: How can we correct this mass injustice?

Sen. BRADLEY: I think it could have been corrected probably if we had had more time. I have an idea which is pretty simple and straight forward to say as we do incidentally very clearly for the movie operation, the guy who is running the machine is not prosecuted, there is a clear exception for him and I think we ought to make the same kind of clear exception for the clerk in the bookstore. The Attorney General feels that that is somehow going to tie his hands and create horrendous precedence and cause constitutional questions and so on and so forth. I don't agree with the Attorney General. I finally went as far as I could and said I'm not going to put my name on it but I give up. I think the answer is that there is a study committee. I think people like Representative McMannus who will probably be on the study committee are tuned to the problem and I am hopeful that they will come up with a better answer than this particular report.

Sen. ROCK: Knowing as I do Senator your concern for the little man, the individual citizen who doesn't have the representation of an expensive legal type, would you then move to lay the conference committee report on **SB 44** on the table?

Sen. BRADLEY: I would have I guess if I hadn't said that I wouldn't fight it. I don't know how I would vote if someone else moved it.

Sen. ROCK: If someone moved to lay it on the table would you support it?

Sen. BRADLEY: I would want to say the basic part of **SB 42** is sound. It updates, corrects, modernizes the definition of obscenity. It makes obscenity prosecutions hopefully easier. It gives the Attorney General some tools he needs to deal with. That

part is O.K. It is just that they haven't taken care of the problem that Senator Foley introduced her bill to take care of.

Sen. ROCK: Understanding as you have stated before this body, the basic part of the bill is sound but knowing further of your concern and your real concern for the individual who might be affected by even the most minute paragraph of this committee report, would you not then feel that even the lowest paragraph of the most minute significance if it is unfair to one individual makes the whole bill unfair?

Sen. BRADLEY: I'd have to think about that one. I guess I came to the conclusion when everyone said look we have to do something that this is better than nothing. It is not what I want and I'm not going to put my name on it but it is probably better than the existing law and we will send it to study and work on it in the meantime.

Sen. ROCK: If my daughter applied for a job at the Paperback Bookstore in the Nashua Mall that is selling a book that by the determination of whatever is in this committee of conference report patternly obscene and she is sixteen years old and she has her first job as a sophomore in highschool, do you mean to tell me that you are willing to have that young girl prosecuted because in that bookstore there is a book that is obscene by the statutes that you are passing and she is going to be penalized by your vote tonight. Do you really mean that senator?

Sen. BRADLEY: Let me make myself clear. I think that she will be less likely to be prosecuted if we adopt **SB 42** committee of conference report then she would be under existing law. Under the existing law we have exactly that kind of situation or close to it.

Sen. ROCK: Is the remotest possibility existent that she would be prosecuted under this bill?

Sen. BRADLEY: Yes it exists but the likelihood is greater under existing law. She would be somewhat better off if we pass it. She won't be as well off as I think the law ought to be but I couldn't get what I think the law ought to be.

CHAIR: Question is on the adoption of the committee report.

See HOUSE JOURNAL for May 25th.

Adopted.

SB 44, relative to the changes in fuel adjustment charges of public utilities.

Sen. Rock moved the adoption of the committee of conference report.

Sen. ROCK: The Chair and the members of this body know that the senator from the twelfth district had some grave concerns with what came out of the House as an amendment to the very simplistic bill that was introduced by Senator Monier and myself as **SB 44**. Those major changes did several things that many members of the conference committee felt would be not only unusual and challengable but would be doubtful that they could get passed in the legislative process. The conference committee on **SB 44** made several recommendations for changes that are contained in the report that is before you and I would be less than candid if I were to say to you in the terms of Sen. Ferdinando this is a simple bill. It is anything but a simple bill. What the conference committee report on **SB 44** does is as follows. It removes from the House version of the Senate bill the Sinville amendment. The Sinville amendment was very limiting as to which utilities would come before the Public Utilities Commission for a public hearing. The members of the conference committee were almost unanimous, although there was no vote taken that the Sinville amendment did not really belong in any committee of conference report. The second thing that the conference report does is change drastically the makeup of the consumer's council. While we are still referring to councilors, the appointment of the councilors which originally rested with the Governor and Council now rests specifically and directly with the President of the Senate and the Speaker of the House. While it will be a full equal body of four members appointed by the Senate President and four members appointed by the Speaker of the House with no more than four members of any one party, it does drastically change the makeup of that body. It brings it fortunately and I believe commendably under the control of the legislature. The members of this body know that I have argued long and hard that the real problem that the consumers of this state have is the responsiveness of the Public Utilities Commission to the problems of the consumer and since the on-going work of the committee established by **SB 280** which is Chapter 368 of the Laws of the 1975 session, has to do with the restructuring of the Public Utilities Commission and while I was originally opposed to establishing a body outside of the legislative process to handle this matter, I was willing to compromise and say we could work within the structure of the legislature to have a consumer advocate, an attorney, admitted to practice before the bar of the State of New Hampshire, responsible to the legislative body which is the council of eight members which is funded by an appropriation of \$40,000 was something that I believe was a real act of compromise on the parts of

at least some members of the committee of conference. I speak now I guess, for only myself because I was diametrically opposed to saying to the rate payers you will now pay a surcharge which is a rip off from the Arab sheiks on the oil which is used to generate electricity and then you will check off on the bottom and pay again through the utility company a surcharge on a surcharge to have some individual represent you at rate hearings. That to me was unconscionable on the part of this Senate to say to the people of this state we are not only going to make you pay for a rip off on the Arab sheiks for the oil to generate the electricity but now we are going to be beneficent enough to let you pay an extra dollar or two to have somebody represent you. That representation belongs in the jurisdiction of the legislative process. It belongs properly, I believe, in the body of the Public Utilities Commission but since that study will not come before the legislative body until 1977 then this may well be a stop get measure to show the population of the State of New Hampshire that we do have a concern for their payments on utility bills that are not only exorbitant but need further study. We have restricted the scope of the work of the consumer advocate only to three areas; rates, fuel surcharges and tariffs, so there can be no way in which this consumer advocate council could in deed go off on a tangent that would not be within the statute provided and certainly since he is under the direct mandate of the council which is made up of members of the Senate and the House, he is under the direction of that body. If there every was a compromise bill before the legislature at this time I think it is the committee of conference report on SB 44. I think that perhaps I could answer any questions on the report. I could speak for at least an hour on what is happening in utility legislation in the state, on utility regulation in the state, on the desires of the people of the state to see more responsive representation on the Public Utilities Commission but it is a step forward and it is a step in the right direction and I urge its adoption.

Sen. SANBORN: Looking on page 4 relative to conflict of interest relative to members of the council, as you know, regardless of what our honorable President says, I would say that I am the true country boy of this Senate. Insofar as in one area, my electricity is provided to me by the New Hampshire Cooperative, and every person that takes electricity through that company is a voting member of that organization. I believe on June 2 they will have a cooperative meeting in the town of Plymouth and they will elect new officers. Let's suppose that this passes in this form and the Senate President selects me as one of the people on this council and let's say on the 2nd of June I am selected by the New Hampshire Cooperative to be a director of that organization, do I have a conflict of interest?

Sen. ROCK: I would have to answer your question with a question senator and I try to avoid that whenever possible. Would you be directly a party to the contract of that public utility?

Sen. SANBORN: I believe as a director of the New Hampshire Electric Cooperative I would be. They are responsible for the operation.

Sen. ROCK: Do you feel that as an appointee by the President and a member of the council would you then be serving a professional service or be directly a party to the contract with that public utility and if your answer is yes then I guess you would have to be in conflict of interest.

Sen. SANBORN: This senator is my point, I'm not sure where I would be.

Sen. ROCK: I would have to answer that I would have some serious reservations as to how in the State of New Hampshire with a citizen's legislature, where 424 members of the legislative body are indeed dependent on diverse sources for their income and livelihood and with such a wide spread base are responsible to so many sources, how it would be clear that anyone of us in any instance could not probably be skirting a conflict of interest. But I would say senator that you sound like a very honorable person to me and I certainly wouldn't hold you in conflict of interest if I were the President of the Senate.

Sen. R. SMITH: I think us country boys are thinking along the same line. I go to page 2 under Chapter 363-C, utility will mean public gas or electric utility. I further go to page 4, conflict of interest disqualification and it says, person cannot serve if he receives or received a substantial portion of his income directly or indirectly from any public utility or its affiliates. If I substitute the term any gas or electric utility doesn't that mean that the Senate President could appoint me to this council even though I work for another utility?

Sen. ROCK: Could you clarify your second question. Which paragraph are you referring to?

Sen. R. SMITH: Page 4, under I, where it outlines the disqualifications of individuals.

Sen. ROCK: I believe at that point we would have to bite the bullet and if you were receiving a substantial portion of your income directly or indirectly from a public utility you could not serve on the commission.

Sen. R. SMITH: Even though on page 2, for purposes of the chapter is defined as to mean any public gas or electric utility and no other?

Sen. ROCK: I would have to look to RSA 362 and see what that says. It would be my understanding that since the original intent of at least one sponsor of **SB 44** was a very simple request of the legislative body to hold a public hearing on the fuel adjustment surcharge and since the fuel adjustment surcharge pertains explicitly to electric generating and gas generating utilities, I would have to say that under the provisions of 363-C, III, you are probably correct. As a full-time employee of the telephone company you probably could be in the discretion of the chair appointed as a councilor. However, 362 which is referred to under III does enumerate all of the utilities including the telephone company. If I were to establish legislative intent by my answer that would be unfair to other members of the committee and I don't think that would be a fair answer. But I would assume that since the intent of the original legislation was fuel adjustment charges and since the telephone company does not levy a fuel adjustment charge, it is probably the only levy that they don't adjust or levy, you would be clear to serve.

Sen. R. SMITH: Would you believe that I consider that an excellent answer.

CHAIR: Question is on the adoption of the committee report.

See HOUSE JOURNAL for May 25th.

Adopted.

SB 22, permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefor; and relative to the location of the troop A/substation of the state police.

Sen. Brown moved the adoption of the committee of conference report.

Sen. BROWN: Section 1 of the bill refers to the youth development center, the catwalk and the boilers. The Senate version was an appropriation of \$25,000 plus the \$5,000 in the budget which made it \$30,000. The House version was \$20,000 with \$5,000 in the budget with a total of \$25,000 as it reads. The second section of the bill refers to the state police troop/A substation. As you know there was a floor amendment in the Senate deleting the footnote in the 1975 capital budget. The House did not accept that amendment. They put it back stating also the location of the station and it is to be located according to their way on the N.H. Public Works & Highways Maintenance property in Epping. Section 3 of the bill is an amendment put on by the House, it refers to the Hampton Beach toilets. In the original capital budget there was an incorporation of \$60,000, \$30,000 state, \$30,000 federal and they were for permanent toilets. The powers that be at Hampton Beach felt that they could not wait the time for the construction plans and so forth and they wanted them now. Because of this the federal government would not participate so the appropriation has been reduced to the original \$30,000 of state money. Section 4 is strictly the legal verbiage to implement the sections I have stated. Section 5 is an amendment by the House. It is Mt. Monadnock Gap Mountain. As you recall in the '75 there was a legislative special in the regular session implementing a state park at Monadnock Mountain. These figures have been changed. In the land acquisition the original was \$150,000 federal and \$150,000 state. The federal will only come through with \$130,000 therefore \$20,000 more to be picked up by the state. The parking in the project there was an original \$2,500 from each federal and state and it is up to \$5,000 each which is an additional \$2,500 of state money. Also the improvements of the town road leading to Marble Trail, it was original \$1,000 federal, \$1,000 state. It is going to cost \$10,000. The federal will not participate, there is a difference of \$9,000 of added state money. The last item is the fence around the reservoir in the town of Jeffrey, it was an original \$7,000 appropriation by both federal and state and the federal has refused to participate in that so the state will have to pick it up to another tune of \$7,000 additional making a total of \$38,500 of state money.

Sen. DOWNING: The figures that you just read off to us, were they on the House version as it came to us?

Sen. BROWN: That I can't answer. The original legislative special that we had was \$203,000 state and \$203,000 federal. Because of lack of participation by federal government in some of these areas, these figures had to be arranged in order to accomplish what the intent was in the legislative special.

Sen. DOWNING: If those figures are different in any way from the bill when it came in from the House then the committee of conference report wouldn't be accurate would it in that it concurs with the House amendment.

Sen. TROWBRIDGE: These figures are the ones that I went through the House with when they had the bill and put it on. These are the original figures I brought in and they haven't been changed at all.

Sen. DOWNING: There are no figures in the conference report. Could you explain what Sen. Brown said.

Sen. TROWBRIDGE: I'm a little mysterious to because as I understand it it is the House version that is being adopted. When I went to the House and got the figures on their they haven't changed. He is reading figures out of the bill. The committee of conference report if I'm not mistaken, simply says that the Senate recedes from its position of nonconcurrence and adopting the House version, am I correct. The conference committee had nothing to do with it. Those are the figures that I came in with because when we set Monadnock bill out to the BOR, the BOR came back and said I won't participate.

Sen. BERGERON: Due to the controversy and I'm not sure if left is left and right is right. I would like to make a motion that we lay this on the table. I think we need more information as to exactly what is going on how it came about and the whole thing.

Motion failed.

See HOUSE JOURNAL for May 25th.

Adopted.

Sen. Bergeron is recorded as being opposed to the committee of conference report.

Sen. Fennelly is recorded as being opposed to the committee of conference report.

Sen. Preston is recorded as being opposed to the location of the troupe A/substation of the state police.

Sen. Foley is recorded as being opposed, to the committee of conference report.

Sen. Sanborn presiding.

FURTHER HOUSE MESSAGES HOUSE ADOPTS COMMITTEE OF CONFERENCE RECOMMENDATIONS

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance and to decrease grants to community mental health services.

HB 2, making a supplemental appropriation to the operating budget of the secretary of state for expenses related to the decennial renewal of voluntary corporation charters.

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and relative to group I disability retirement benefits of the New Hampshire retirement system and amending the estimates of unrestricted revenue in the 1975 operating budget.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program.

Sen. Brown moved the Senate recess until Thursday, May 27, at 1:00 p.m.

Adopted.

Thursday, 27 May 1976

OUT OF RECESS ENROLLED BILLS AMENDMENTS

HB 16, legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton; naming the state owned bridge in Hooksett, the "Hooksett Memorial Bridge"; and redefining the term "open space land" as used in the current use taxation law. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. SANBORN: This amendment makes a tense agreement correction and a corresponding change in the amending language.

Enrolled Bills Amendment to HB 16

Amend section 12 of the bill by striking out lines 2 through 6 and inserting in place thereof the following:
inserted by 1957, 47:1 as amended by striking out said section and inserting in place thereof the following:

Amend RSA 178:3-a as inserted by section 12 of the bill by striking out line 18 and inserting in place thereof the following:
Newington and New Hampton have voted or vote in any referendum to prohibit the Amendment adopted.

HB 21, making an appropriation for operating and capital expenses of the department of health and welfare. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. SANBORN: This amendment strikes out a line which is not part of the budget item being amended. The second amendment corrects a typographical error.

Enrolled Bills Amendment to HB 21

Amend section 2 of the bill by striking out the line reading "Total Subparagraph (c) 1,684,900

Amend section 11 of the bill by striking out line 5 and inserting in place thereof the following:

ferred or expended for any other purpose.

Amendment adopted.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program and providing that the office of comprehensive planning shall do the planning required for eligibility under the bureau of outdoor recreation program, relative to the outdoor recreation planning program; and increase the appropriation for snow making and snow grooming. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. DOWNING: Both of these amendments correct the PAU reference errors in the bill.

Enrolled Bills Amendment to HB 32

Amend section 5 of the bill by striking out line 2 and inserting in place thereof the following:

for fiscal 1977. Amend 1975, 505:1.03, 03, 07, 01, 09 by striking out same and inserting Amend section 5 of the bill by striking out line 5 and inserting in place thereof the following:

Amend 1975, 505:1.03, 03, 07, 02, 92 by striking out same and inserting in place Amendment adopted.

SB 22, amending the 1975 capital improvement projects by providing for emergency repairs in the boiler room at the New Hampshire youth development center and making an appropriation therefor; relative to the location of the state police troop A/substation; relative to a capital improvement project at Hampton Beach; and relative to capital improvements at Mount Monadnock-Gap Mountain. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. DOWNING: This amendment is necessary to conform the bonding total and the amending language to legislation adopted earlier in this session.

Enrolled Bills Amendment to SB 22

Amend section 4 of the bill by striking out lines 1 and 2 and inserting in place thereof the following:

4 Bonds Authorized. Amend 1975, 504:7 as amended by 1976, 1:2 and as amended by an act of the 1976 special session of the General Court entitled "An Act relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation." by striking out said section and inserting in place thereof the following:

Amend 1975, 504:7 as inserted by section 4 of the bill by striking out line 4 and inserting in place thereof the following:
of \$27,777,286 and for said purpose may issue bonds and notes in the name and on

Amendment adopted.

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance and to decrease grants to community mental health services. Ought to pass with amendment. Sen. Lamontagne for the Committee.

Sen. DOWNING: This amendment corrects a grammatical error.

Enrolled Bills Amendment to HB 4

Amend RSA 415:18-a. I as inserted by section 1 of the bill by striking out line 3 and inserting in place thereof the following: ses, shall provide to each group, or to the portion of each group comprised of

Amendment adopted.

ENROLLED BILLS REPORT

SB 44, relative to changes in the fuel adjustment charges of public utilities, establishing a legislative utility consumers' council and making an appropriation therefor.

SB 42, amending the laws relative to obscenity and exposing minors to harmful materials and requiring the house and senate judiciary committees to study the need for additional changes in pornography laws.

HB 7, defining the responsibility for the planning of sewerage projects in the Winnepesaukee river basin; defining project allocation under P. L. 92-500; and making an appropriation for algae control in the surface waters of the state.

HB 22, relating to the medical dental staff of New Hampshire hospital.

SB 48, relative to appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

SJR 1, establishing a special committee to study tax reform at all levels of government.

HB 2, making supplemental appropriations to certain state agencies; amending the law relative to the use of revenue sharing funds and relative to agreements under the Trade Act of 1974.

HB 44, extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions relative to fish and game unexpended fund balance; amending the provisions relative to fish and game control of expenditures; and providing for the continuation of the coho salmon program.

HB 1, making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and relative to group I disability retirement benefits of the New Hampshire retirement system and amending the estimates of unrestricted revenue in the 1975 operating budget.

Sen. Lamontagne for the Committee.

Adopted.

HOUSE MESSAGES HOUSE ADOPTS COMMITTEE OF CONFERENCE RECOMMENDATION

SB 44, relative to the changes in fuel adjustment charges of public utilities.

SB 22, permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the New Hampshire youth development center and making appropriations therefore; and relative to the location of the troop A/substation of the state police.

SB 42, relative to the dissemination of hard-core pornographic materials.

FURTHER HOUSE MESSAGE HOUSE REQUESTS CONCURRENCE

First and second reading and referral

HCR 5, establishing a committee to study the need of the General Court for nursing and first aid services at late night sessions.—To Rules and Resolutions

ENROLLED BILLS REPORT

HB 4, to alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance and to decrease grants to community mental health services.

SB 22, amending the 1975 capital improvement projects by providing for emergency repairs in the boiler room at the New Hampshire youth development center and making an appropriation therefor; relative to the location of the state police troop A/substation; relative to a capital improvement project at Hampton Beach; and relative to capital improvements at Mount Monadnock-Gap Mountain.

HB 16, legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing restaurant beverage licenses in New Hampton; naming the state owned bridge in Hooksett, the "Hooksett Memorial Bridge"; and redefining the Term "open space land", as used in the current use taxation law.

HB 32, increasing the appropriation for the bureau of outdoor recreation grant eligibility program and providing that the office of comprehensive planning shall do the planning required for eligibility under the bureau of outdoor recreation program, relative to the outdoor recreation planning program; and increasing the appropriation for snow making and snow grooming.

HB 21, making an appropriation for operating and capital expenses of the department of health and welfare.

Sen. Lamontagne for the Committee.

Adopted.

Sen. Downing moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time.

Adopted.

LATE SESSION

Sen. Sanborn moved that the Senate adjourn to the call of the Chair.

Adopted.

Adjourned 1:30 p.m.

Thursday, 10 June 1976

The Senate met at 11:00 a.m.

Prayer offered by the President of the Senate, Alf Jacobson.

The Pledge of Allegiance was led by Senator Poulsen.

Sen. Ferdinando presiding.

VETO MESSAGE

June 3, 1976

To The Honorable Members
of the General Court

Pursuant to Article 44, Part II of the Constitution, I return herewith Senate Bill 44 with my objections to its enactment noted below.

Senate Bill 44 was born out of the frustrations of our electric consumers. Their electric bills rose to unprecedented heights because of the fuel adjustment clause required by the New Hampshire Supreme Court to cover the spiraling costs of fossil fuels used to generate electricity.

Unfortunately, this bill will not accomplish their goals. It will end up costing consumers more because of the inordinate cost of litigation it will generate.

For the first time in our State's history we would create a Nadertype Commission that could and would harass and thwart energy production.

But it would not save a single cent for electric consumers.

It would not produce a quart of oil or generate a kilowatt of electricity.

On the contrary it would allow eight Legislators and their Consumer Advocates to interfere with the siting of oil refineries, the building of nuclear plants and the production of all other eventual sources of energy.

This bill represents the most serious intrusion of the Legislative Branch into the powers and duties of the Executive that I have witnessed during my term as Governor.

If the Legislature can set up and man Commissions and bodies with executive responsibilities without any input from the Executive appointive authority, then surely there would be little or no need for retaining the constitutional Executive Branch.

The bill definitely raises some serious constitutional questions.

Perhaps the worst aspect of all is the fact that the bill does nothing to help cut the cost of electricity in the way possible—through increased production of energy. The simple facts of life are if we are to cut the cost of electricity we must increase the production of oil, gas, nuclear and other fuels.

This legislation creates a Legislative Utility Consumers' Council and a Consumer Advocate and requires a Public Utilities Commission hearing on every fuel adjustment charge levied by a public utility.

This requirement will cover all electric utilities producing or purchasing electric power and the Public Utilities Commission advises that it could require approximately 96 hearings per year to comply.

The Legislative Utility Consumers' Council may be unconstitutional in that the Executive Branch appropriates the funds for the study and it is done entirely within the province of the Legislative Branch.

I have explored with the Attorney General the constitutional problems involved.

He advises me that "the essential constitutional issue raised by the bill is whether the creation of a wholly legislative council with power to employ an advocate for consumers in administrative and judicial hearings is in effect the authorization of an executive function, so as to violate the separation of powers doctrine.

"New Hampshire's constitutional framework presents a different context from that involved in the recent case of *Buckley, et al. v. Valeo*, in which the United States Supreme Court held that the Federal Electoin Commission scheme violated the separation of powers doctrine.

"In this state, the Legislature is given constitutional authority to name, or fill, executive offices. Therefore, the immediate legislative control over appointment does not present a case of constitutional impropriety.

"The best judgment we can make on the basis of today's research is that we think there is a reasonable chance that under the New Hampshire Constitution the advocate's function would be classified as so clearly executive that his continuing responsibility to the Legislature, rather than to the executive branch, would violate the separation of powers doctrine of Part I, Article 37."

This Consumers' Council will have the power to intervene or initiate a proceeding before any regulatory body or any other board, commission, agency and the courts. This will include federal agencies and courts and the State energy facility siting committee.

The consumer advocates will have similar powers, which, under this legislation, they apparently may exercise without a vote of the Consumers' Council.

The main purpose of the original bill which was to require hearings on fuel adjustment charges has already been accomplished by the Public Utilities Commission's voluntary action. The House Amendment creates a legislatively controlled council which will perform the same functions as are currently performed by Legal Assistance—using taxpayers money to fight state agency decisions.

If a consumer advocate is a worthwhile position, it should be placed in the executive branch and in a much more tightly drafted statute than is presented here.

The set up of the Council is poorly drafted. It says not more than four of one party, but it makes no provision for what would happen if the Speaker appointed four from one party. Would this force the Senate President to appoint four from the other party? If says that the Chairman shall be alternated, but it doesn't say whether this is biennially, or after each meeting. It uses phrases like "a substantial portion of his income" rather than setting forth a specific percentage which could be considered an attorney's full employment act and would undoubtedly generate lawsuits. In another section it says that "no one shall voluntarily become interested pecuniarily in any public utility" which could imply one share of stock.

When all is said and done the simple facts are that this bill will not cut electric rates

one cent and will undoubtedly set in motion additional costs to our utilities that will be passed onto the electric rate payers of New Hampshire.

Respectfully,
Meldrim Thomson, Jr.

Sen. Monier: I would like to ask the indulgence of the Senate for a five minute recess. There are comments being made in the halls as I passed in here that are disturbing to me and I would like to take four of five minutes to check on a couple of things if I may.

Sen. Bergeron: I would just like to know some of the ground rules here. I thought we were called back to handle these matters and go ahead and get them done. I don't want to be one way about the thing but I have several important commitments that I have made this morning and I have kind of altered my schedule to be here to act on the vetos.

Recess
Out of Recess

Sen. Monier: I would like to take this opportunity to thank the Senate for the courtesy of allowing me a couple of minutes, I appreciate it.

Sen. Bossie: I would ask the members of the Senate to override this veto on Senate Bill 44. We don't have to go into detail on this bill. If any bill has been more hashed, rehashed, its Senate Bill 44. Frankly, the Senate should especially be proud of this bill. Senators Rock and Monier have been very diligent in pursuing this bill and going to the House with it. The original bill is still here and we just added on some more. At the same time, I think that the Senate President and Senator Claveau should be thanked for their diligence in working with the Committee on Consumer Affairs on this bill. I have heard the reason for the veto and I would suspect that if Marsall Cobleigh had come before the committee of conference to review with us what the details of the bill are he certainly couldn't have written an opinion such as that. If you will refer to page 4, under 363-C:8, the bill limits the powers of the committee strictly to utility rates, fuel adjustment charges and tariffs. I don't see how anybody in the world can interpret it as being a source of limiting energy supplies. This is just incredible, it's just impossible to do. Any consumer advocate that this committee would appoint would be limited to that and that alone. I don't believe that the Governor's veto based upon the fact that this could be unconstitutional as a result of some sort of invasion of the executive domain is without foundation. I think this is an excellent bill and I think we should override the veto unanimously.

Sen. Bergeron: Mr. President I rise in support of the motion of Senator Bossie. We have listened to the message and basically there are a couple of points I have to agree with. The bill was borne out of frustration. The people have told us and we have experienced what is going on with our public utilities rates. I disagree however that this is a Nader-type committee, this is a legislative committee and not a witch hunt committee. I also agree that there are other things that we perhaps should be doing but this bill was passed by both houses of the legislature. It went into a committee of conference approximately two weeks ago and I can see nothing that changed in the last two weeks to alter our thinking at all. I would urge my colleagues to override the veto.

Sen. Trowbridge: One of the arguments that has been put up against Senate Bill 44 was, that somehow it was unfair to the public utilities of this state, that somehow they are over balancing the right of the consumer against the stockholders of the Public Service Company and the people who run it. I had a number of stockholders of public service come to me and they raised these issues. Within about twenty minutes I explained that at the present time the rate base for electric utilities covers the cost of hiring legal counsel for the Public Service Company, that is in their rate base so the consumer is now paying for a lawyer to represent the Public Service Company and the telephone company. Secondly, there is a misconception, I believe, that the Public Utility Commission is the guardian of consumer affairs in this state. That is not true. The Public Utility Commission is designed to be a quasi-judicial body that has to have the interest of the utility in mind and the consumer in mind, it is not just the consumer and we have always sort of been relying on them and saying why doesn't the PUC represent the consumer more. Their job is not to represent either one so to balance out the sort of three way situation that would normally be before the Supreme Court of New Hampshire or the Supreme Court of the United States where you have a judicial body sitting and two advocates on opposite sides, we would really have to create a situation where the public has its own advocate to balance out the situation. It has been unbalanced up to now. Having said that to the shareholders they said Gee, I never

thought of it that way and they said I think you better vote for Senate Bill 44 which I said I was going to do anyhow and (2) that we should override the veto. I think that even looking at it from the other side of the coin, fairness not only to the consumer but fairness to the stockholder of a licensed utility, that Senate Bill 44 stands up under any measure and I think we should vote to override the veto.

Sen. Jacobson: I want to point to one particular thing in the veto message and that was the question of the intrusion on the executive. This legislative advocacy council is not an intrusion on the executive. The executive has the full authority to appoint the Public Utility Commission and as Senator Trowbridge has implied, it is a quasi-judicial function. The utility company came before the Public Utility Commission and had their advocate. Incidentally, that advocate is paid for by the public as well since it comes out of the operating costs of the Public Service Company. What we are providing in Senate Bill 44 is the other side of the judicial procedure, an opportunity for the consumer to be heard and to be represented at such a hearing, that is all this bill does with respect to the advocacy council. I think it is very important that we who are constitutionally the closest representatives of the people and the public interest, we then have the appointment power to this council, have the ultimate control over the council so that it is clearly related to the consumer and to his service. Now whether or not that advocate can change any of the rates or do anything in the positive way it must be left to the future, there is no way in which we can know that.

Sen. Preston: This is one bill that most of us have heard many constituents on. There is nothing more frustrating to the average housewife, or head of the household, than trying to deal with a public utility. I don't view it as anything punitive to the utility company but I do see it letting some daylight in on some very technical proceedings. For anyone that sat at a phone rate increase hearing or electric utility rate increase hearing, the technical aspects are far beyond the lay person and I think this will in some way alleviate the frustration so that the average guy, so to speak, that is busy making a living and can't get there to be heard will be well represented and I think it is long overdue.

Sen. Monier: I rise to speak on this motion. Let me state ahead of time I will vote to override and now let me give you some reasons for it because I find this rather a sad day. I don't think there is anyone in here that doesn't recognize that I have publicly and personally and perhaps professionally, supported the Governor in most everything that he has done. In this particular case I made a public statement before and I stand by it again. I think that he has had some bad input some place or for some reason or other I find myself on the same side as Mr. Gerber and I also find myself on the opposite side of the fence. This disturbs me because I find myself on the same side as Mr. Gerber and I also find myself on the opposition to the Governor and Mr. Gerber and I find them working together. I read the veto message, I read Mr. Gerber's Saturday editorial and I think both of them are still talking about the bill that came from the House and this disturbs me. I will be quite frank with you, I saw the Governor this morning, I talked with him about this, both of us did as sponsors, the Governor suggested to us some alternative routes, I might add that I as one and the other sponsor can speak for himself, suggested some other alternative routes, the Governor wrote a letter, I'm going to read it into the record, it isn't going to change my vote and it isn't going to change it for two reasons. I think it's too late and I am sorry that it's too late to be very frank with you because it might have been a better solution. I think the second reason is because representing the ninth district I find myself besieged with my own constituents who feel that this is an action that they desire. I am going to be very honest with you. I don't know if this is going to reduce their electric rate and I don't know whether it is going to do the kind of action that I think they hope to get from it. I do know this, the Public Utilities Commission was established by law to represent the consumers, it is not there to represent the executive branch or anyone else. It is my personal feeling that I don't like the term advocacy. I would much rather define it as a utility representative. I accept the committee of conference report that Senator Rock went into, stood up for what he and I believed in in this particular thing which quite frankly Senator Bossie has already indicated, restricts this committee or this council to act at rate hearings, tariffs and fuel adjustment charges. Those are held by the Public Utilities Commission and as a result those are going to be in front of the Public Utilities Commissioner not out in front of the site committee, not out in front of some nuclear plant discussion or any place else. I will also as a matter of record so that my people know and just so that everyone who votes on this both in the House and otherwise, that I would not have voted for the Proctor amendment as it stood. To me I do not believe in consumer advocacy councils that do not report to people that are elected by the citizens therefore this is not a Nader

type council. Nader doesn't report to anyone except who presents them with the money. I will be quite frank with you, my argument for this bill as it now stands is this, the advocate or the utility councilor that will represent your's and my constituents at the public utility hearings on these matters are responsible to 8 elected officials who are in turn accountable to the people that elect them. That is the way business ought to be. I may be wrong as I told Sen. Rock one time but I will be consistently wrong and that is that I argued the same thing about taking away from the Health Advisory Commission the power of appointment by the very fact that indirectly they made the nomination. I would argue it on any other bill and therefore I will be consistent. I support this bill on that basis and on the basis alone. I want to make it clear that I support the Governor philosophically, it is not an apology. I just don't want anyone to get any ideas that I am changing my stripes at all, I'm not. This bill I accept and I urge us to override.

June 10, 1976

Senator Robert B. Monier
Senate Chambers
Concord, New Hampshire

Senator D. Alan Rock
Senate Chambers
Concord, New Hampshire

Dear Senators,

Pursuant to our conversations respecting Senate Bill 44, this is to suggest that I would be pleased to immediately engage a lawyer full time from funds available to me from the New England Regional Commission to attend the monthly hearings of the Public Utilities Commission in connection with the fixing of the fuel adjustment clause.

This attorney would be required to see that the fuel adjustment clause does not contain one cent more than that permitted by the New Hampshire Supreme Court decision of 1973 establishing the clause.

The attorney would make public reports once a month and report also to you gentlemen and any other legislative leaders and members that you might suggest.

We would be happy to work with you in developing a viable bill that would create a Utility Consumer Advocate in the Office of the Attorney General who would be assigned full time to protect the interests of all consumers affected by public utilities.

This would give you an opportunity to prepare a much better bill on this subject which of course is what was accomplished when the Legislature and our office took the time to work together on the student loan bill which was recently enacted.

I can assure you and all members of the Legislature that I am as anxious as anyone in the State to see that the utilities are restricted in the rise of the fuel adjustment clause to the cost of fossil fuels permitted or authorized by the court but not one cent more.

Sincerely,
Meldrim Thomson, Jr.

Sen. Lamontagne: Can you tell me why the manufacturers of my area called me and wanted me to vote against this bill?

Sen. Monier: No I can't. I don't know why they have called you, if they have I can only answer you one way. I had a person call me last night from Merrimack, that's in my district, he asked me why I had changed my mind and was supporting a Nader type advocacy council. I explained to him quite frankly that this was not a Nader type advocacy council and if it had been I wouldn't have supported it. I told him quite frankly that I would not have accepted the Proctor amendment as it stood because it was a Nader type and I use the "Nader-type" very frankly by definition, that they do not report to those who are accountable to the public. I can't answer your question but his answer to me I thought was rather enlightning, he said "Gee, that isn't what it said in the newspapers". I have already made my statement that for once I find Governor Thomson and Gerber both talking about the same bill on the same side and both of them talking about the wrong amendment.

Sen. Rock: As the Chairman of the committee of conference which Senator Bossie referred to just a moment ago, I agree with Senator Monier that we hammered out what I believe was one of the best compromises that the legislative process saw happen

during the special session. After all, if a compromise can be accomplished taking both sides off the fence and welding together legislation that could be agreed upon by people of such differing views, I think that in itself is an accomplishment. We have shown that the House Appropriations and the Senate Finance were willing to bend and extend the appropriation to fund the legislation that we are going to vote again on here today. I had people ask me about spending money for this kind of legislation, I frankly was opposed and felt that what had been proposed earlier in the way of voluntary contributions would never have worked. I think the modest sum that we have appropriated here plus the way we have structured this commission and I trust to the fairness of the president of this body, his appointments and I trust the fairness of the Speaker of the House of his appointments, that we will not see happen what was referred to in the veto message as the structuring of that body. I see also legislators working together to give a fair shake to the consumer and I did a little mathematics on it and it is going to cost the taxpayers of this state five cents per year to fund this council. I think it is about time the consumer had his nickel's worth and was represented properly and I see this accomplishing it. I would like to read a letter from a businessman in my community. "To Senator Rock: I would like to urge you to override the Governor's veto on Senate Bill 44, providing for public hearings on fuel adjustment clause of a consumer advocate to represent the consumers at rate hearings. The average consumer needs this representation before the PUC to guarantee a fair and open process. Thank you for your consideration." That letter is signed Mr. Bernard Tasker, President of the P. E. Fletcher Corporation which is an appliance dealership in Nashua and also has an operation here in Concord. He is the past president of the Retail Association in Nashua and I think that you will find that there are business people who support Senate Bill 44. I hope I haven't taken too much time to speak on what I hope will be the last time on this legislation. Thank you.

Chair: Question before the Senate is will the bill pass notwithstanding the veto of the Governor.

The following senators voted yes. Senator Lamontagne, Poulsen, Smith, Gardner, Bradley, Bergeron, Jacobson, Saggiotes, Monier, Blaisdell, Trowbridge, Rock, McLaughlin, Claveau, Smith, Ferdinando, Sanborn, Brown, Bossie, Fennelly, Downing, Preston, and Foley.

Result: 23 yeas; 0 nays.

SB 44 passed by a unanimous vote in overriding the Governor's veto.

FURTHER VETO MESSAGE

June 3, 1976

To The Honorable Members
of the General Court

I return herewith Senate Joint Resolution I without my approval and pursuant to Article 44, Part II of the Constitution set forth my reasons as follows:

I did not join the Executive Council last December in calling the Legislature into Special Session to pave the way for broad base taxes. Yet that is what Senate Joint Resolution I would do.

This resolution creates a special committee of 23 to study tax reform and report to the Legislature by December 6, 1976.

It is the opening salvo in the battle for higher taxes in 1977.

The term "tax reform" is a euphemism meaning "higher taxed". What this resolution would authorize would be a search for ways to levy new and more burdensome taxes on our people.

Many of the persons specifically designated by the resolution to study tax reform are known to be supportive of or sympathetic to the concept of broad base taxes. Citizens might well wonder how impartial a study by such persons might be.

The membership of the special committee to study tax reform suggests a planned imbalance favoring legislative members. Seven of the members are to be appointed from the executive branch, twelve from the Legislature and four from other sources.

The legislative members would receive mileage for attending meetings of the commission but no other members would receive any compensation.

Since 1925 there have been six tax studies in New Hampshire as follows:

1927-1928	Recess Tax Commission
1937	State Tax Commission (per request of Gov. Murphy)
1947	Interim Commission on State Finances

1949	Interim Committee on Over-all Taxation
1954	Commission to Recommend Reorganization of the N.H. Tax Structure (Langley Report)
1969-1970	Citizen's Task Force

The Langley Report accurately summarized previous reports as follows:

"The studies and recommendations of these Commissions have shown an amazing degree of continuity. Each has stressed the need for improvement in the methods of local property taxation; each has stressed the inequities of the stock in trade tax and has suggested that a replacement tax be enacted. Each has recommended that the General Court enact an income tax and a sales tax to place the New Hampshire tax structure on a broader base."

The very terms of Senate Resolution 1 clearly show that its authors hope for a report that will document the need for new broad base taxes.

For example, the special committee is "to study, report and recommend legislation to reform the entire tax structure of this state, *including possible methods of broadening the tax base.*"

The resolution contends that our present tax structure is made up of old inequities and regressive taxes. But all taxes are inequitable and regressive on the persons who must pay.

It also suggests that the present real estate property tax is cruel and inequitable on all citizens of moderate or slender means.

In order to ease the real property tax burden or eliminate it entirely, it would be necessary to levy heavy sales and income taxes.

Invariably the advocates of broad base taxes, such as the general sales or income taxes, have used the reduction of the real property tax as the shoehorn for slipping on this obnoxious pair of broad base taxes.

But the promised magic never materializes. Look at our neighboring States of Maine, Massachusetts and Vermont. In each instance the general sales or income tax was advocated as a means of reducing the real property tax.

Now each of these sister states has both a sales and an income tax and real estate taxes are higher than those in New Hampshire.

Senate Joint Resolution 1 suggests that the revenues of the state are inadequate to meet the needs of our people.

The resolution states that "the fiscal events of 1975 have brought the monetary situation of New Hampshire into sharp focus causing great distress to our citizenry."

Our tax structure is keyed to the growth of our economy.

In three and a half years the only substantive changes in this tax structure were raising the rates on beer, tobacco and a technical readjustments in the Business Profits Tax to obtain \$12 million required to off-set the lost income from the Commuter Tax when the U.S. Supreme Court held that tax unconstitutional.

Incidentally, that Commuter Tax was one of several taxes suggested by the tax reform study of the Citizen's Task Force in 1970, which study cost the taxpayers of New Hampshire \$190,000.

With appropriations of the Special Session added to those of the regular session, the State will have appropriated for the biennium 1976-1977 a total of \$339.6 million. This is an increase of \$56.2 million over the prior biennium. It shows an annual anticipated growth in our state revenues of about ten percent.

The increase in revenues and the percentage of growth is set forth below:

YEARS	REVENUES	GROWTH
1970-1971	\$165.7 million	115.8%
1972-1973	243.0 million	46.6%
1974-1975	276.3 million	13.7%
1976-1977	339.6 million	19.4%

During this period the only major new taxes were the Commuter Tax which was declared unconstitutional and the Business Profits Tax which replaced the old Stock-in-Trade Tax.

The large increase in 1970-71 was due to the enactment of the Business Profits Tax and the Commuter Tax. That for 1972-73 was a result of the impact of federal revenue sharing.

It should be noted that the growth in state revenues in New Hampshire has been keeping stride with our economic growth.

This is not true in our neighboring states. Their economy has dragged and so to increase revenues they have had to increase substantially the burden of taxation on their people.

There can be no question but that our favorable tax climate accounts for the present business migration to New Hampshire with the jobs and prosperity that has been brought to our people.

Would we destroy all of this for the mirage of a tax study that would include "possible methods of broadening the tax base?" I would hope not.

To the elderly citizens and their organizations who might support this resolution, I would point out that "tax reform" that would lay a sales tax or even an income tax on all of our people prove to be highly regressive and inequitable on them.

Since becoming governor I have urged on the Legislature tax exemptions for the elderly. Among these recommendations were exemptions from the interest and dividends tax, the room and meals tax, and real property tax.

Thus far the Legislature has refused to make any meaningful exceptions for the elderly except for property taxes, and even then they used a formula that took back a large part of the real estate tax exemption that the elderly thought they would receive.

We can and should definitely improve the tax climate for our elderly citizens. But we should do this by reforming the exemptions for the elderly instead of trying to walk on the quicksands of a tax reform study.

In view of the past history of tax studies during the last fifty years, all of which have recommended more and heavier taxes for our people, I am returning Senate Joint Resolution 1 to the house of its origin with my strong disapproval.

I suspect that the discerning eyes of our voters will be focused on how their representatives vote on this important tax issue. By that vote they will know those Representatives and Senators who favor broad base taxes and those who agree with me that New Hampshire can operate without such taxes.

Respectfully,

Meldrim Thomson, Jr.

Sen. Blaisdell: I am a co-sponsor of this piece of legislation. I ask to override the Governor's veto. The Governor mentioned in his veto message that in 1927 the Recess Tax Commission stated or had a statement to make and I would like to quote from it. "An equitable tax system may be said to be one under which its citizens contribute to the cost of the government. (1) in proportion to governmental benefits derived; (2) in proportion to their ability to pay." As I said, I co-sponsored this Senate Joint Resolution #1 with Sen. William Sanborn and Representative Sara Townsend from the House. I believe I speak for the 61,000 members of the AARP and the NRTA in New Hampshire and I stand before you and ask for your vote. It is my sincere opinion and belief that the time has come to stop giving lip service to the elderly of our state and retired people of our state and I believe that this resolution is a beginning at least for the answers. In the House of Representatives I believe this resolution went through on a five to one vote. As I remember the debate in the Senate, Sen. Lamontagne will probably dispute this with me, but only one person as far as I can remember and it was Senator Monier asked to be recorded against this Senate Joint Resolution 1 although others spoke against it. I think Senator Monier was the only one. I'm not going to take up much of your time because I know some of you have to go. I gave a speech the other evening in front of the New Hampshire Jaycees and there are just two parts of it I would like to read and then I will sit down and let somebody else talk. "We who have been blessed with American citizenship have an obligation as part of our bicentennial celebration, I believe, to protect and improve the quality of life of all of our people. This obligation weighs heavier on we New Hampshireans and on many others. I say this because over the many years, possibly because of our independent individualistic and self-sufficient upbringing, we have allowed the quality of life to deteriorate for many of our citizens. As we look about us and we need not look very far, in any community or city, we can observe the plight of our elderly, handicapped, our mentally retarded, our state hospitals, our educational systems and I am sure that you can name other areas of society by virtue of your personal experience and observations. My challenge to you is to change these conditions and to improve the quality of life for these who have been neglected by the system. I challenge you that when you help celebrate the 225 birthday of America and that some of you look forward to the celebration of our 250 anniversary, that you will be able to take pride at that time that your efforts help eradicate it at plight

of many of the people so affected today. Assuming that some of you might agree with me at least in part, that there does exist conditions of which we are not proud and for which we can commit ourselves to improving, now the question of how logically follows. I believe that this Senate Joint Resolution # 1 is a start and I believe it is the way to find the answers. I for one am not afraid to go into any election with the illness on my shoulders that I may be a broad base taxer, I want to state before all of you that I am not for new taxes because I have a hard time in my business to pay the taxes that I have. When people talk about no new taxes, on my little business in Keen, New Hampshire last year I had to find another \$500 for my property that I have my store on, another \$500 for another piece of property that my son and I own and on my home and to me Mr. President and Members of the Senate, if anybody says that's not a new tax I disagree with them. I will close by saying that a woman called me, a constituent of mine, the other day, from a trailer park in West Keene and she said to me, Mr. Blaisdell my rent has gone up \$3.00 a month, that means ten cents a day, and she said I don't have it. Well, when I took this seat, and I'm very proud of it, I took it with the idea that I would come over here and try and do some good for the people of this state, so if I can go into an election and carry the illness of being a broad base taxer on my shoulder I will carry it but I still think we need some help for the elderly of our state and we need it for the retired people of our state. I think we have been giving them lip service and ask your support.

Sen. Lamontagne: I rise in support of the Governor's veto. In my committee on Ways and Means, I was in opposition to Senate Joint Resolution # 1, I have recorded myself in opposition on the floor of the Senate against SJR # 1. Personally, I feel that the people who want this committee established are nothing else but a group of broad base taxers and they are people who have been trying for years to get an income tax or a sales tax in New Hampshire. We are known all over the country and other countries too, that New Hampshire doesn't have a broad base tax. How would the woman, that the Senator from the tenth district mentioned, be able to pay a broad base tax if she can't afford to pay ten cents for her rent that is something to think about. I personally feel that our senior citizens have been fooled. I have seen many of them who appeared before our committee on Ways and Means and they have talked over things with me. I have dealt with the senior citizens and especially with the Council on Aging ever since it has been established. Therefore, if I could see where there would be some gains for our senior citizens I would be in favor but the only thing I can see before us in establishing this committee is nothing else but looking for either an income tax or a sales tax in New Hampshire. If there is such a need of a study and if there is such a need for additional revenues, which we seem to be getting by every year, then why is it that the fiscal committee doesn't get themselves into, a committee. No one is going to tell me that if fiscal committee is facing a problem of lack of funds that they can't organize themselves to make a study. I am voting against this Senate Joint Resolution for only one reason, because it is the same group of people who have been trying to get an income tax or a sales tax in New Hampshire and I join with the Governor in his veto.

Sen. Sanborn: Senate Joint Resolution No. 1 was originally an honest effort to aid our taxpayers who find themselves on a pinched income particularly the elderly who are often hard-hit the hardest. My original intent and I believe the intent of the other sponsors has been changed in SJR # 1, it went through the House and into a conference committee, this change cannot be pinpointed by reference to a specific language. It has occurred in the attitude towards such legislation. I don't lay the blame on the House, and not only on ourselves, but on the legislature as a whole. The governor must share the blame also. The issue isn't whether or not we should study the tax structure but rather how many votes our action here today will give or lose for ourselves. This is not the way to help our elderly citizens particularly in an election year and particularly where such an emotional issue is involved. The majority of the legislators, elected officials who stand on any particular tax relief proposal that will effect the voters this fall. We should not allow our elderly and retired groups to continue to believe that there is a meaningful study or reform being done during the eighth month of an election year. The past six studies mentioned in the Governor's veto message were all initiated in a non-election year. The majority of their work was conducted without politics hanging closely over the participants' head. I believe the changes that had occurred in both the attitudes of certain legislators and the Governor make SJR # 1 just another empty promise for senior citizens. I do not desire to participate in such promises. I still believe that a study is needed but I think now the time wrong. We should review our problems in a regular session for hearings and through the legislative process when we can act on the basis of past reports and reconsider past legislation particularly property tax

exemption for the elderly. I urge you to vote to sustain the Governor's veto.

Sen. Bradley: Do you agree with the implication in the Governor's message that all of the people who will be on this committee are broad base taxpayers?

Sen. Sanborn: Looking over the committee and everything after it is final, the decision of the committee of conference and so forth, and after really studying it, I am afraid that a majority of them would be broad base taxpayers.

Sen. Bradley: Would you agree with me that the first named member, the Governor's designee, would not be a broad base taxpayer?

Sen. Sanborn: Probably.

Sen. Bradley: Then it would be safe to assume that the people down under (e) two representatives of the business community and two representatives of labor appointed by the Governor and Council would not necessarily be what you call broad base taxpayers?

Sen. Sanborn: Well on that I would want to flip a coin.

Sen. Bradley: Well, at least it is not preset ahead of time?

Sen. Sanborn: I can understand business people being more favorable to a broad base tax than a business profits tax.

Sen. Bradley: Do you think the people under (f) the three representatives of town, county and city government appointed by the members of the Municipal Association would be what you call broad base taxpayers?

Sen. Sanborn: I am a little more worried about those three as I am anyone else.

Sen. Bradley: Would you question the two representatives of the general public under (g), appointed by the Governor and Council?

Sen. Saggittos: Senator, as I understand it, the problem you find with the bill is the fact that the recommendation might be one for broad base tax?

Sen. Sanborn: I stated that this being a political year you have pressures.

Sen. Saggittos: Who makes the decision as to whether or not we do have a broad base tax?

Sen. Sanborn: I assume the legislature, the Governor and the Chair at that time.

Sen. Saggittos: Then would you not agree with me that the legislature in most instances would represent the views of their constituents?

Sen. Sanborn: I sometimes wonder.

Sen. S. Smith: I rise in support of overriding the veto. All I have heard so far of the veto message and of the debate here in the Senate is the question about broad base taxes. You know that is a nice catch word and everyone is suppose to salivate like Pavlov's dog as soon as the word is mentioned. I don't think that is the purpose or the point of a study of this type. It has been brought up in question in that the Governor is certainly not a broad base taxpayer and has ample representation on this commission, there are many groups who would have input into the study and basically it is a study which would be reported back to a legislature next January which we would then consider what should be done if anything. I think that it is unreal, basically unreal, that the legislature would not adopt this piece of legislation so that at least in the legislative session, the legislature can act on fact, or at least hopefully fact, rather than fantasy.

Sen. Preston: I reside on the border in our state where the people from the Commonwealth swarm over the border to live in our state who, I think, many years ago were duped into some taxes that are being spent by bureaucrats that really haven't benefited them. I would like to explain why I stand for the override of SJR # 1 and I don't interpret it as a vote for any broad base taxes. In my opinion SJR # 1 is an effort to study tax structure in New Hampshire and recommendations will be forthcoming that I may well disagree with but I sincerely feel that a large segment of citizenry and an intelligent segment of our citizenry want to take a look to see if we can better do the job to benefit the citizens of our state. I think that by preventing this we would legislatively be shutting the door on those who want to take the opportunity to be heard and participate in this legislative process. I may not agree that our present system is as unequitable as it sounds by some of the supporters of SJR # 1 but I think there are some unfounded fears being expressed here this morning that we are endorsing a broad base tax and I don't agree with that. I am neither convinced that this study is a panacea to cure all the ills that we hear about but let's not fear to take a look, receive the recommendations and I don't think that the sixth time in fifty years to stay abreast of the situation is too much, therefore I am going to support the override of the Governor's veto.

Sen. Downing: I rise in support of SJR # 1. Senator Lamontagne when he was talking alluded to testimony before the Ways and Means Committee and his position. Frankly, I found it very very encouraging a number of our senior citizens were so interested in volunteering themselves to perform a duty and get involved with this type of a proposal. All too often when our senior citizens retire they become inactive and we lose

the finest talent and the finest minds that brought us to the point where we are. Again, as the distinguished senator from the first district pointed out, they have been fooled and I think they have been fooled but I think that time is over with and I don't think they are going to be fooled any longer. I think they are vitally interested with being involved in state government and what direction it takes and so forth and they and others could be involved on this SJR # 1. I just can't understand anyone being afraid of the opinion of another or what opinion they may possibly have. If we don't have room to discuss the opinions of others then we only need one person in this chamber that can make all the decisions for all of us, there is no need of twenty-four of us being here. Stop and think about it. When we are afraid to listen and to hear what other people think, we have a real problem and when we can just shut them out and refuse to let me have their say or have some input into a situation before we make our decision, the problem is even greater. I think it would be a wonderful thing to have people get involved and take a look at the tax structure. I certainly have never been known as a broad base taxer, I have never supported a broad base tax and broad base tax as you know has been limited to a sales tax or income tax and primarily I don't think a sales tax, if we exempted the sale of necessities of life, food and clothing and that type of thing, would raise any kind of money at all in this state and any figures you heard today have been those that would tax everything. If you made the proper exemptions, as I'm sure we would, if such a tax were to come about we just wouldn't raise enough revenue. Anything in an income tax would have to be associated with the abolishment of the resident property tax as far as I am concerned and that is very unlikely to happen also. Therefore you could hardly put me in the position of being a broad base taxer. I think we do have to look periodically and it should be automatic, we shouldn't need a special resolution to do it, if the legislature and the state government were on the ball they would have it automatic someone reviewing constantly our tax structures and positions. I know the last great revision we had was probably the abolishment of the stock and trade tax and it was replaced by the business profits tax. There is an area I think someone ought to take a look at. I really don't feel the business profits tax ever fully replaced that stock and trade tax. I think we started out at five percent and the following session we had to jack it up to six and it really should be put at seven or seven and one-half percent if it is really going to replace the stock and trade tax. Maybe this is an area someone ought to look at. This committee could look at that and other areas. We come on with a couple of changes for senior citizens relative to property tax exemption. Instead of the patchwork way we have approaching this and each session trying to improve it a little bit, maybe somebody should take a look at something more comprehensive and more permanent in nature. There are so many of these things to look at and if we have people willing to give their time, it doesn't cost us a thing, it doesn't cost the state anything, have people willing to look at it, give you some recommendations, give you some basis for it and leave the decision to yourself, I don't see any problem with that at all, I just can't understand anyone being afraid of the opinion of other people. The decision will still be yours. I urge you to support SJR #1 and override the veto.

Sen. Bradley: As I rise in support of overriding the veto I was a little surprised that the Governor's message turned out to be so long because in reality the whole message can be summed up in one statement which is, don't confuse me with the facts my mind is closed. It is really a very simple issue. The legislature expresses by this the desire and intent that a critical issue, I think the Governor would agree, the most important issue in his political success, no matter what side you are on it is an important issue, the legislature is stating its intent that it wants to have a study, not just by one of its own committees but it wants a study by a committee with broad representation, getting input from the Governor's people, getting input from the elderly, getting input from the towns and cities, a very carefully thought out mix of people. The way I look at this, the legislature ought to be entitled to have that kind of committee working for it. I don't deny the Governor's constitutional right to veto but really when you think about it logically, the Governor has no business vetoing a study committee that the legislature says it wants to set up. There is no way that anybody can be hurt by more knowledge. I think that old fashion notion should have gone down the drain centuries ago that somehow we are going to ruin ourselves if we learn more. We can't be hurt by finding out what this committee is going to say. If we don't like what the committee says and we don't think they have their facts straight we can reject it but maybe the committee will come back and agree with the Governor's position and if it did, I for one certainly want to listen to that and I think that is all we can expect and all we can ask. Let's see what the committee finds, comes up with and then let's consider it. That is the sensible way that we ought to act as a legislature.

Sen. Blaisdell: Sen. Bradley, if tomorrow and I know it's not going to happen, if the federal government said no more revenue sharing to the State of New Hampshire, it's up to the state, I know it's not going to happen, but if it did happen wouldn't it be nice to have somebody working on some answers in case we did come up with that real crisis in government?

Sen. Bradley: Yes it would.

Sen. Trowbridge: I would like to address that part of the Governor's message which deals with the ability of our present revenues to cover our expenses, because I think there are some misleading items there that you should know about before you vote. The figures can be used in any which way. The governor cites rises since 1970 in our revenue of the state. He does admit that a good deal of that rise comes from revenue sharing itself. The other big rise in our revenues since the business profits tax was enacted is the fact that the business profits tax is now appropriated to the state so it comes in as a revenue item but 86 to 87 percent of it goes back out to the cities and towns to pay back for reimbursement for the stock and trade tax. The same thing is true for the room and meals tax. That wasn't there before, it all comes into the state but then 40 percent of it goes back out to the cities and towns so it is an income item, you show a great rise in revenues but as an out go it is almost and even seven as to what is going out to the cities and towns. Were it not for that change in our tax structure, plus another one we did with the gas tax in 1971, I believe, whereby the cities and towns shared in the gas tax revenue which they had not previously shared, were it not for that, the screams and howlers on the local level would be a great deal more than they are right now. If we are going to continue to every time we pass a tax it is in place of another tax which we have to pay back, we will look like we are making progress but we are taking three steps forward and three steps back and this is what we have been doing and if you notice how much is truly expendable now for state services alone out of our budget, for purely state services which we undertake no help either from the federal government or in terms of reimbursing someone else to do it, percentage wise, the amount expendable for current state services is declining by 10 percent a year. Part of this is because of debt service; part is because of pension services that are becoming built into the system and when you take all of those out and the reimbursement to the cities and towns, you come down to a declining amount of money available to the state of New Hampshire to run its own affairs. This is something that is being overlooked and I think that, hopefully in this study, if it were to pass, a segment of it would be to look at the funding of state services and not simply the problem of the property tax which I think we all recognize as being a real one, the other one is there as well. With the experience that I have had in the last four or five years, even I cannot answer that question right now and I would need a lot more help and a lot more study to make sure I know where those trends are going that I have time to do in the hustle and bustle in a session or a special session. This is something that I would just like to add to the debate and I think we should vote to have the study and override the veto.

Sen. Foley: I rise in support of overriding the Governor's veto. I don't believe that this Senate Joint Resolution #1 is a rubber stamp for a broad base tax. It has been seven years since we have had a study. Since that time we have found new monies in the state, one new source is the dog track and we have gotten good money from that, we have had some other bills concerning new sources of revenue, hai lai, casino gambling, cards, they haven't passed but they have been some new ideas and somewhere, somehow, this committee might come up with another source that might be more compatible with the legislature and might be passed. We will never know if we don't have a study to find a new source. The last task force cost a great deal of money. This is not a costly committee just some mileage for the legislators who belong and the members are certainly not a majority that would be in any way for a broad base tax. I consider this committee one that would be hunting for a source of new revenue other than broad base taxes, other than a committee that is just going to say we need one. Our vote for SJR #1 doesn't bind us to vote on any of the recommendations the committee would bring in. If we find it distasteful, Senate members could vote against any recommendations but I think we should have a new committee that has new blood in it new people from around this state, just people in the state and not all representatives and senators, I think they could give us some new ideas and I certainly hope that we vote to override the Governor's veto.

Sen. Saggiotes: I rise very briefly just to state my position why I will vote to override the veto and I don't want it to be misconstrued as in support of a broad base tax. Many of the things that I would like to say have already been said. The most important thing was stated by the Senator from the fifth district. If I was to be sitting here representing

my constituents with a closed mind, not willing to listen to legislative study committees or other recommendations coming forth from my constituents, I would not be here. I would not want to serve if I was to be here with a closed mind. I am willing to listen to anyone therefore I would like to state that I support this very strongly as I supported the citizens task force bill, however, I did vote against the business profits tax because at that time I didn't feel the revenue estimates were going to live up to expectations and for that reason I voted against that. If this study committee should come in with a recommendation for a particular broad base tax that I did not like I would vote against that. If they came in with a recommendation to alter, to modify or to improve a present tax that we have I would support it in the best interest of the people of the State of New Hampshire as well as my constituents.

Sen. Monier: I will support the veto. Quite frankly I have listened to this many times in my tenure in the State of New Hampshire I am not going to get into this summatic argument of broad base taxes and otherwise because that really isn't the argument. I think the argument is very simple and basic if you want it. When I go out and talk to the people in Senate District 9, if I seek re-election, I am going to be telling them what I am going to do and what my principals are. I would like all the advice I can get, I have a legislative fiscal committee that I can turn to; I can attend the budgetary hearings; I can read as all of us can. I think there have been five or six studies, I sat on one of them in the task force under Governor Peterson. I know what happened there, the subcommittee said one thing and the final report said something else because it didn't agree with the political philosophy of that time. I don't think it is a matter of what kind of taxes, I don't think there is any problem at all. If what you use for justification of the Senate Joint Resolution is correct then there ought to be a standing committee that does this day in and day out, every year, every biennium, always sitting here with advice for representatives and senators to go to and I think we have that, we have that in our standing committees. I think therefore we should recognize this as it exactly is, it is one more input which I am not against, but I will be very frank with you I don't think it is necessary. I don't think the money that is spent on it is needed, I think very frankly, the people, the citizens, not you and I, who are responsible to, will answer us in November as to whether we are voting right or wrong in their opinion. They don't have time to read these studies; they don't have time to verify, for example, as to what we will get from this if it is slanted or not slanted and I might add neither do you or I and you know it. We depend now upon the Fiscal Committee to provide us information for this and I hope the Senate waits upon the EDA to provide them input from the Executive Department legislation and so forth. Let's take one of the issues that has been thrown around here this morning, business profits tax and broad base tax and so forth. I agree that the business profits tax is supposed to be a substitute for stock and trade and stock and trade was the worst tax we ever had. One thing that has not been mentioned and I think that should be put in the record and that is the simple fact that there was one other significant, basic, concept that the business profits tax changed and that is the control of those funds from the town to the state. I might add that we have heard here that the state provides more and more services. I haven't heard one single person say let's establish a committee to find out whether we need all these services and whether we hadn't better cut them back and just how desperate some of our people would be if you did. I am not going to get into a summatic argument as to whether that ought to be the elderly, the youth, the prison or something else, because everyone recognizes these are standard systems the state has to maintain. I tell you one thing, the committee hasn't said they would look into and they ought to and that is in the last fifteen years I haven't seen a budget come into this General Court which hasn't increased the people that are needed to provide state or local services, I haven't seen one single attempt to eliminate any services or agencies, or administrative groups that may have perhaps outlived their usefulness. It is a strange breed of cats that when we arrived here we are looking for study committees for revenue, and I would like to see some study committees look into shorten government because I think that the proof lies in the pudding. I don't believe we have better services for the money spent and I darn well know other states don't have better services for the money they spent. I haven't seen one single piece of evidence anywhere that the elderly or you or I, are going to get any property tax relief from this study. I don't need any additional study and if this is so lets run this and turn out all of our standing committees. The Ways and Means Committee in most states deals with this kind of a matter. We get a report consistently from the legislative fiscal committee, they are our watch dog on this, I think that raises enough questions as to what is the validity of this study in the first place. To be quite frank with you, it isn't broad base taxes or some other kind of taxes, it is the simple fact that the people of this

state have continuously elected and turned down the attitudes of anything except voluntary taxes rather than mandatory taxes and those are the terms we ought to be using. If this wants to study means by which we can increase revenues through voluntary taxation then I will support it. If it wants seek it on the basis they are looking after the elderly then I state now as I stated before, that that group is being used because there are other benefits and not one person said a thing about it. I had an elderly person call me three days ago, nothing to do with this at all, asking me isn't there some law on the books by which I can have my taxes rebated because of certain circumstances? The answer is yes. I sent her to the selectmen and she was taken care of. There are avenues for those that are in need. They are not all the best avenues, this is not a perfect environment we live in one way or the other. I don't see any reason for this at all except to provide additional data over a period of time between now and January to support a particular issue or a series of particular issues. I intend to vote to sustain the veto.

Sen. Downing: Senator you referred to a constituent that called relative to tax relief and you referred her to the selectmen and the selectmen brought about that relief. Do you know whether that relief was brought by them just exercising their authority to rebate taxes or whether she was offered a lien on her property?

Sen. Monier: No, I don't. She was happy that she had been taken care of.

Sen. Claveau: I rise in support of overriding the veto. I agree with Senator Downing and Senator Bradley that we should have a study, let's go on with the study and we will take it from there later.

Chair: Question before the Senate is will the bill pass notwithstanding the veto of the Governor.

The following senators voted yes. Senators Stephen W. Smith, Bradley, Bergeron, Jacobson, Saggiotes, Blaisdell, Trowbridge, Claveau, Roger A. Smith, Fennelly, Downing, Preston, Foley.

The following senators voted no. Senators Lamontagne, Poulsen, Gardner, Monier, Rock, McLaughlin, Sanborn, Brown, Bossie.

RESULT: Yeas 13, Nays 9

Lacking the necessary $\frac{2}{3}$ vote the Governor's veto sustained
Senator Monier is recorded as supporting the veto.

SUSPENSION OF THE RULES

Sen. S. Smith moved that the rules of the Senate be so far suspended as to allow the introduction of Senate Bill No. 60.

Sen. Smith: This is to help out the Senator from the second district. It is basically a housekeeping bill and it grants Franconia College the power to grant degrees. Somewhere along the line they forgot that they were on a temporary basis and this allows them to grant degrees on a permanent basis. This has been cleared by the Post Secondary Education Committee and a very favorable report was handed in by Mr. Jensen to the Senate and House Education Committees. I hope that the Senate will go along with the suspension of rules for introduction for the passage of the bill.

Sen. Downing: As a member of the Rules Committee I rise in support of the suspension of rules for the introduction of this bill at this time.

Motion adopted by requisite $\frac{2}{3}$ vote.

INTRODUCTION OF A SENATE BILL

First reading, second reading and referral to Education.

SB 60, relative to the power of Franconia college to grant degrees.

SUSPENSION OF THE RULES

Sen. S. Smith moved that the rules of the Senate be so far suspended as to dispense with the committee hearing and the notice of the report and that the bill be placed on second reading at the present time.

Motion adopted.

Sen. Rock: I certainly support Senate Bill 60. I recollect serving in the House Education Committee and also here in the regular session, that we have had to do this several times. I would hope that there would be a way that we could through a process put these units on notice that we have to do this. Does anyone tell the colleges that they

have to do this because their degree granting powers come from the legislature so they don't get in the box?

Sen. Jacobson: I would like to rise in support of Senate Bill 60 and simply state that in 1971 Franconia College was put on a four year probationary with respect to the degree granting power and that expired in 75 and someone goofed. What this legislation does is to push it forward and backwards to retroactively include this year to July 1, 1977 and hopefully they will come in for examination so that they will then undoubtedly be put on a permanent authority such as other colleges that are established.

Sen. S. Smith: To answer Senator Rock's question, it is my intent as Chairman of the Senate Education Committee to write a letter to Mr. Jensen asking him to please review all colleges as to the expiration date of their charters, so that one bill can be brought in if necessary in January of next year and I will suggest in the letter that a formal system be set up by the Post Secondary Education Commission to insure that this is done.

Ordered to third reading.

SUSPENSION OF THE RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to place Senate Bill 60 on third reading and final passage at this time.

Motion adopted by requisite $\frac{2}{3}$ vote.

Third reading and final passage

SB 60, relative to the power of Franconia college to grant degrees.

Adopted.

HOUSE MESSAGE CONCURRENCE IN PASSAGE OF SENATE BILL

SB 44, relative to changes in the fuel adjustment charges of public utilities, establishing a legislative utility consumer's council and making an appropriation therefor.

RECESS

OUT OF RECESS

SUSPENSION OF THE RULES

Sen. Jacobsen moved that the rules of the Senate be so far suspended as to allow the introduction of Senate Bill No. 63.

Sen. Jacobson: This is a bill that has been in the legislature before and in fact it has passed the legislature in a somewhat slightly different form. It establishes a judicial selection commission made up in this piece of legislation of seven members. I realize that it would not be propitious to try and pass this legislation today, pass it over to the House and have it vetoed in all probability. What I would like to do is have it introduced, have first and second reading and then refer it to the Judiciary Committee. That will give an opportunity to let all parties hear the matter again. It is my view and it has always been my view, that the government belongs to all of the people and that there should be greater involvement of the public into the questions that relate to the appointment of the judiciary. I firmly believe that it would be in the public interest to have the Judiciary Committee have this bill and to hold the appropriate hearings and be ready to go whenever the legislature should be in session again. I hope that the members of the Senate would support the introduction and then it would be referred to the Judiciary Committee.

Sen. Monier: In light of previous discussions we have had, if we refer this to the Judiciary Committee at this time would that Judiciary Committee then be a valid vehicle by which this bill would be introduced in January or are you suggesting that we would be back between now and January again and that at that time we would take the bill up?

Sen. Jacobson: I make no suggestions of one way or the other but someday in the future the legislature will meet again.

Sen. Monier: Then, I can assume that what you are indicating is that this be referred to Judiciary today and that prior to the convening of a new General Court in January, we would be dealing with this bill?

Sen. Jacobson: Senator, that is one of those prospects. We never know when we are

going to be called back into session. We may have to have another special session at some time. We may be asked to come back again under the present session because of some emergency reason so that there are many possibilities that are open.

Sen. S. Smith: We have had this bill in a previous period. What brought the introduction of it at this time?

Sen. Jacobson: A little excitement on my part.

Sen. S. Smith: Did this have anything to do with a recent nomination on a judicial appointment?

Sen. Jacobson: I would say that it brought it back to the conscious part of my brain.

Sen. S. Smith: If this is the case, personally I think its fine that we study these things but I wonder as far as the gubernatorial appointment is concerned in regards to this, really how much effect it would have had. I think it is obvious that one of two things happened, either the Governor used very poor judgment to begin with or else one of those down river newspapers got to him and I just wonder if you think this kind of legislation would resolve that type of issue?

Sen. Jacobson: I cannot speak to either one of the propositions that you propose since I do not know the facts of the case. The only fact that I know is that I did write to him about the appointment myself, that I can attest to, but I think that if this legislation had been on the books today, I think we might have had a different scenario with respect to what in fact happened.

Sen. S. Smith: Senator I have been up in the hills kind of north of here and I haven't been in Concord to hear all those scenarios that have gone on. Do you think it would be a valid assumption that the Governor either made a very bad judgment on the appointment of this individual, I don't know the man and I don't have a prejudice one way or the other, or else he was prejudiced by the papers in withdrawing that nomination?

Sen. Jacobson: I can only say that according to a newspaper report, the Governor said that the editorial opposing the nomination did not have any effect on him. I would rather say that in my view there were the prospects for appointing individuals who in my estimation were better qualified. My point on this is not really....but the input factor of the public as well as the legal profession into judicial appointments and it is on that ground that I would like to stand.

Sen. Fennelly: You just mentioned people more qualified for that position in your judgment. Are you saying that basically that Mr. Nadeau who has served basically six years as the judge in the district court in Durham, that was up for nomination to be transferred over to Dover is not qualified?

Sen. Jacobson: I make no such statement.

Sen. Fennelly: Did you not make a statement that you thought that Attorney Koromilis would be a wonderful choice for that position?

Sen. Jacobson: I certainly did and do believe it.

Sen. Bradley: I want to support Senator Jacobson's motion. This is a bill which our committee has taken an interest in in the past and has always reacted favorably to. The committee would be happy to have this back as a vehicle in which to reconsider this matter. There is no doubt in my mind that this is an idea whose time has come and I really think that despite the previous veto that probably the Governor is coming around to that point of view and there is no doubt in my mind that the public in general will come around to the point of view that there should be something, a more involved mechanism then we know have in the selection of our judges. It has been said that water is to important to leave to the general and that education is to important to leave to the educators, well the judiciary is too important to leave solely to the judges or solely to one governor to appoint. This bill would open up the selection process so that we would have input from the public from the bar. It would not be binding on the governor but the governor would have the benefit of that input. For something as important as the appointing of a judge to a lifetime appointment, I think, as I said, this is an idea whose time has come.

Sen. Sanborn: Do you feel if this bill was committed to your committee on Judiciary that it might in fact open certain gates. You know there has been quite a bit of comment amongst the general public as to courts, their system, their appointment, the length of term and so forth. Do you feel that perhaps quite a lot of evidence would be coming in this area to?

Sen. Bradley: I'm not sure I understand your question. The committee would presumably hold hearings on this and consider the issue of whether or not there should be this sort of judicial screening to advise the governor with respect to judicial appointments and anything relative to that we would hear.

Sen. Monier: Am I correct parliamentary wise, that what we are doing is that we have a motion on the floor to accept this bill in?

Chair: The question is whether or not we are going to suspend the rules to allow the bill to be referred to the Senate Judiciary Committee.

Sen. Monier: I rise in support of accepting the bill in because I think Senator Jacobson has valid reason in his own opinion to do this but I cannot let some of these comments pass by. I voted against the bill when it was on the floor before. I will vote against it again if it comes back out because I feel from the conversations we have had here and from the newspapers, etc., that this is one more time to infringe upon the executive authority and so forth and so on. It is very fine to talk about public input and yet turn it around to where it is input from a professional group. If we really feel about public input then I would be very happy to amend this bill to the way we elect judges then you have full public input. At the present time we already have input in a sense from accountable people from the Governor and Council. If you want to add the legislature to this sort of appointment that is another question to debate. There seems to be a trend that has occurred particularly in the last four years because we have a Governor who does things the way other people didn't ever do them before. I find this kind of objectionable. I don't know why a law association or a bar association should have input into judges any more than some other professional association. You have to recognize that every professional association regardless of who they are have an interest of their own. I refuse to allow or pretend that this is a public interest, it is a professional interest and this is one of the reasons I have been against the bill. You have public input whenever you have accountable public elected officials and there are six of them that pass on judges nominations. The fact that a particular Governor nominates a particular person which some group doesn't like or does like I don't think should enter into statutory revision. This is my one thought to it but I will support bringing it onto the floor because I think that Senator Jacobson has his opinion and I think he is entitled to them. I still wouldn't support them.

Chair: Question is on the introduction of Senate Bill 63.

Motion adopted.

INTRODUCTION OF A SENATE BILL

First and second reading and referral

SB 63, establishing a committee to make recommendation to the governor relative to judicial appointments. To Judiciary Committee

SUSPENSION OF THE RULES

Sen. Jacobson moved that the rules of the Senate be so far suspended as to allow the introduction of Senate Resolution No. 5.

Sen. Jacobson: A number of questions have been raised by the State Employees Association with respect to the manner in which state employees are occasionally changed in their classification. In fact, the state employees have a big petition out on this question. I sat down with the officers of that association and suggested to them that it would be better to have some committee study this whole question about jumping people in classifications, etc. rather than to go through a big hassle over a petition to change classifications and so forth and so on. In the spirit of compromise they agreed to withdraw that procedure and to have a Senate committee study the question, so what this bill does is to put the Senate on record in favor of studying this question of the disjuncture of classifications among the state employees.

Motion adopted.

INTRODUCTION OF SENATE RESOLUTION NO. 5

First and second reading and referral

SR 5, establishing a committee to study the state classified employee system. To Rules and Resolutions.

Sen. Jacobson moved that the rules of the Senate be so far suspended to allow Senate Resolution #5 to be placed on second reading and final passage at the present time.

Motion adopted.

Senate Resolution No. 5 passed.

SUSPENSION OF THE RULES

Sen. S. Smith moved that the rules of the Senate be so far suspended as to allow the introduction of a committee report not previously advertised in the journal on House Concurrent Resolution No. 5.

Sen. Jacobson presiding.

Sen. S. Smith: The House Concurrent Resolution was referred to the Rules Committee and it was done on the last day of our session. The Rules Committee has met briefly in executive session and acted favorable upon the resolution. I think it should be noted that for a number of years now Eileen Smith has been a nurse who has tended faithfully after the needs of many members of the legislature. I know that this has not been as important to the Senate due to the fact that the members of the Senate are strong, rugged, virile and so forth, but there many members of the House who have needed the services of the first aid room. Eileen Smith has worked from 9:00 to 5:00 for the state and she has stayed on hours on her own when the House and Senate have met in late session to take care of the needs of members, to be sure that some of them take their medicine, that they eat properly and to care for them under the stress and strain of legislative service. I think it is important for the legislature and for those working in the State House and the Annex to have this service available on a full-time basis and I hope that the Senate will go along with the adoption of the resolution:

Sen. Downing: I rise in support of the pending motion to suspend the rules to allow this committee report at this time. It certainly isn't a controversial matter. The House is more concerned with the nursing services than the Senate. It is important to them and they have adopted it and I think we should go along and pass it here.

Chair: The question is on the motion by Stephen Smith to suspend the rules to allow a committee report with no previous advertisement.

Motion adopted by requisite $\frac{2}{3}$ majority.

COMMITTEE REPORT

HCR No. 5, establishing a committee to study the needs of the general court for nursing and first aid services at late night sessions. Ought to pass. Sen. Smith for the Committee.

Adopted.

HOUSE MESSAGE
HOUSE CONCURRENCE IN SENATE BILL

SB 60, relative to the power of Franconia college to grant degrees.

FURTHER HOUSE MESSAGE
HOUSE REQUESTS CONCURRENCE IN AMENDMENT

SB 62, relating to financial security of horse and dog race licensees; relating to a temporary adjustment of the tax on dog racing; and requiring a study of the tax on all race meets with pari-mutuel pools.

See HOUSE JOURNAL of June 10, 1976.

Sen. Trowbridge moved nonconcurrence and requested a committee of conference.

Sen. Trowbridge: On Senate Bill 62 to be fair, should apply to the other dog tracks in the state so that if they had a bad day and go below \$75,000 in handle, they will get the same tax relief that we are presumably giving to Belmont. The second issue is the broader issue of keeping harness racing going in this state. I know the hour is late but we have had considerable testimony given to us on the Senate side about the prospects of harness racing at Rockingham and at Hinsdale and therefore I don't see how I could support a bill which merely in its present form comes in to perhaps setup the Belmont track without making any considerations for the other problems we have with racing in this state. I know there are problems, I know also that the House may, in its wisdom, decide not to accede to a committee of conference that is the rumor on the other side of the wall. If that happens so be it, then there is no relief to Belmont and everybody goes away empty-handed. I am hopeful that the House in its wisdom would accede to a committee of conference so we can discuss this matter this afternoon and come back with a compromise that will satisfy the majority of both houses. Therefore I ask you respectfully to go along with my request to nonconcur and set up a committee of conference.

Sen. Lamontagne: I rise in support of the report from the House. I personally feel that this is getting into the late hours and at the same time I think that if this is what they are talking about on the other side of the hall then why don't we at least give it to Belmont. Belmont is the only track that is in trouble. The General Court will reconvene in 1977 and if there are other tracks who are facing some problems then I am sure they can be taken care of. Right now I just as soon see a half of a loaf accepted and take care of a track that is having trouble so that New Hampshire can get some revenue.

Sen. Blaisdell: Do you know the handle at Hinsdale raceway the other evening?

Sen. Lamontagne: I am not aware.

Sen. Blaisdell: Would you be surprised if I told you it was \$57,000? Would you be also surprised if Plainville, Connecticut and Hartford Hai Lai and Bridgeport Hai Lai took in a million dollars?

Sen. Lamontagne: I am not aware of that at all.

Sen. Blaisdell: Are you aware that if we don't get some revenue from this small track in that area or even in Rockingham that harness racing in this state is going to be absent from this state. I'm going to lose and you're going to lose a \$20,000 payroll at Hinsdale, the working people that you are always so concerned about?

Sen. Lamontagne: Senator the only thing I have been hearing is if, if, if.

Sen. Downing: I rise in support of the pending motion to request a committee of conference. First of all, I think as the bill has come from the House we have a real valid constitutional question whether such a thing can be done. As Senate Bill 62 developed, I was under the impression that the Senate recognized the need to take a look at the total area. We had a problem with revenues and there is no question about and it is not an iffy situation at all. The harness racing industry is in dire trouble today. At the last meet Rockingham Park lost money. They are programmed to lose money in the fall meet, substantial money, and there isn't a board of directors going that can meet when they are going to meet, the first part of September, and agree to keep this industry going. They just can't do it. I think we are here now, we have a chance to recognize the need and do something about it. I think it is very very important to do it and if the House is so shortsighted they can't see that matter, I think we will just have to point it out to them again and urge them to do something. If they don't do it then we will just have to come back another day and do it.

Sen. Blaisdell: Senator Downing do you agree with me that time is short?

Sen. Downing: Yes Senator, it is shorter then people like to recognize.

Sen. Blaisdell: Are you concerned Senator with the people in Salem that live off from Rockingham Park part of the year?

Sen. Downing: I am concerned with an area of revenue that is a benefit to everybody in this state and if it falls down not just the people in Rockingham Park or my town or your town, the people of this whole state are going to be hurt and the money is going to have to be raised some place else, instantly.

Sen. Blaisdell: Then you are aware that Hinsdale raceway took in \$57,000 the other evening and they need \$75,000 to break even, and it is economically unfeasible to even continue like that?

Sen. Downing: Yes Senator.

Sen. Blaisdell: This has been beaten to death a hundred times and I'm not going to stand up here and talk to you about \$20,000 payroll at Hinsdale, I am sure you know about it. I am sure you know about the people oriented business that the harness racing brings to this state and what it brings fences and you have heard this from Bill Rosenberg and everybody else. I think we have got to look ahead to where we are going and not be hurried, and not be worried about getting out of here this afternoon. This is something that is very important to the State of New Hampshire. We need the revenue and we have got to protect the revenue. I will stay here all night, all day tomorrow and all next week if I have to, if I can protect that revenue.

Sen. S. Smith: I rise in support of the motion for a committee of conference. My district encompasses Belmont. Belmont is taken care of basically in this bill but I think the consideration here is much greater. We should be concerned with harness racing. We should be concerned with Belmont also but even in addition to that I think that the problem that arises is the long view on racing revenue. I don't think it is going to be with us that much longer. Maybe two or three more years. I think that Massachusetts, Connecticut are going whole hog for all kinds of gambling revenue and if this occurs our racing revenue is badly hurt. In the interim I think we should take a look and consider through a committee of conference the harness racing which has been a large source of revenue for the state. I think for the welfare and benefit of the state we must try to have an effective committee of conference.

Sen. Sanborn: Senator Blaisdell, did I understand in your earlier remark that the game of hai lai took in a million dollars in the State of Connecticut?

Sen. Blaisdell: I can qualify that, Hartford Hai Lai, Bridgeport Hai Lai and Plainville, Connecticut dog track took in a million dollars.

Sen. Sanborn: In other words about \$300,000 for each one of the hai lai games, I am just estimating?

Sen. Blaisdell: It could be that. I didn't get the exact figures but a million dollars sounds awfully good to me.

Sen. Sanborn: You don't know what became of the hai lai bill that was introduced in this special session?

Sen. Blaisdell: No, I don't senator.

Sen. Downing: The hai lai bill is still very active in the Ways and Means Committee and it is my understanding that if we come back on another day of the special session, which we have several left, the Senate can act on that when and if it wants to. With the closeness of these facilities opening up in Connecticut, it just seemed premature to bring that bill up for debate on the floor when we were going to be very close to a real experience and we really didn't have to be imaginary about it at all. The other way we had to guess at what was going to happen. I think the experience in Connecticut represents the first time that hai lai has been established in a sort of non-resort area. At this point it appears that it will be very successful there and the Ways and Means Committee is receiving weekly reports on the take and so forth and it is a real revenue raiser. If it holds up I think we are going to have to consider it. The parliamentary status of that bill right now is that it is active, it's a live bill, it is in the committee and it may come out of the committee any day of the special session.

Chair: The question is on the motion as offered by Senator Trowbridge, that the Senate do nonconcur with the House amendment and set up a committee of conference.

Motion adopted.

The Chair appointed Senators Saggiotes, Trowbridge, Blaisdell and Downing.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE IN CONCURRENT RESOLUTION NO. 7

First reading, second reading and referral

HCR No. 7, commending the secretary of state, Robert L. Stark. To Rules and Resolutions

Sen. Ferdinando moved that the rules of the Senate be so far suspended so as to allow HCR No. 7 to be placed on second reading at the present time.

Motion adopted.

HCR No. 7 passed.

ENROLLED BILLS REPORT

SB 60, relative to the power of Franconia college to grant degrees. Sen. Lamontagne for the Committee.

Adopted.

HOUSE MESSAGE

REFUSES TO ACCEDE TO COMMITTEE OF CONFERENCE

SB 62, relating to financial security of horse and dog race licensees; relating to a temporary adjustment of the tax on dog racing, and making an adjustment in the tax on harness horse races.

Sen. Saggiotes: Would the parliamentary procedure to have the bill come back to the Senate be reconsideration?

Chair: The proper motion would be to reconsider action whereby we nonconcur with the House amendment on SB 62 and setup a committee of conference.

Sen. Saggiotes: Having voted with the majority, I move to reconsider the action whereby the Senate nonconcur with the House amendment on SB 62 and setting up a committee of conference.

Sen. Saggiotes: We can see the handwriting on the wall. The House through its leadership of the Speaker has put us in the position where we have no alternative than to accept the bill as the House has passed it in its present amended form. With the

Senate passing it in its present form at least there is that possibility where the Belmont track might be able to operate this year with some type of relief. I urge my fellow Senators to support the motion.

Sen. Trowbridge: I would like to oppose the motion. I think that he said only one inaccurate statement in his presentation and that is that we have no alternative not to accept the amendment that was put on by the House. We definitely have an alternative and that is the alternative I think we should do and that is not to reconsider and let this measure die at the present time. When Senate Bill 62 started, it started with an introduction of the Rooney's from Pittsburgh into this body, which we have heard about. It was on the basis that we could perhaps bring back the Belmont track through the participation of the Rooneys. We then asked the Rooneys if there was anything wrong with giving the same tax relief to the other dog tracks as we would give to Belmont and they said fine and dandy, we prefer it that way. We think that what is good for one is good for all and so a formula was set that if any dog track had a handle of less than \$75,000 on a given day, that the tax relief section would trip in. If it was over \$75,000 at Hinsdale or Seabrook or anywhere else it would naturally not trip in, since that time things have changed. First the Senate took on a bigger aspect through efforts of Senator Downing and included harness racing and licensing provisions which were very important to the investigatory aspects of who is a licensee and who is a proper licensee. We sent over to the House a full-fledged bill which dealt with harness racing, investigation, licensing and dog tracks, now what do we have coming back to us. We have an amendment put on by the House that is so narrow in scope it can only apply to Belmont. It says that anybody who is licensed in 76 who is a new licensee can operate a dog track and will get the tax relief. Since that time we understand that there is a pretty good chance that the Rooney's are no longer interested in the track. One of the reasons you may see that is that they haven't been around here for the last week and a half. During the discussion, Hinsdale was nice enough to say look, if you will pass the tax relief saying that it will apply to all dog tracks, we will send our executives up to Belmont and help run that track for free. They are the only people around who are able and willing to do that in time to get the track operating so that it will be there on July 4th and if they don't have it by July 4th you might as well skip it. What we would be doing if we pass the House amendment is, in a way, be giving a phoney idea that we are going to do something for Belmont, which won't happen and having made lots of promises to the other dog tracks that we wouldn't accept something for one track and not for the rest, we would then have to throw over all the promises we made that we were willing to consider this thing so long as it wasn't on a favoritism deal. Sen. Saggiotes is saying our only alternative is to take an amendment which probably will not get Belmont back into action; (2) has thrown out any possibility of help from Hinsdale and (3) makes us violate the promises we made that we were going to deal with all tracks on an equal basis. Perhaps for the \$40,000 in revenue you might get out of Belmont track if it ran all summer under the tax relief program, for that small amount of money, for me to turn around and do something that I think is wrong is not enough and I'm not selling out for that kind of deal. I frankly think that it will cloud the future of Belmont in a way that no one is going to know who is going to run it and what is going to happen and other potential people may not be brought in who might come in anyhow. I heard Speaker Roberts say, well we've done our job, now it's up to the Senate. I think we ought to recognize that the Senate on Senate Bill 62 has done a lot of work. We have put together a whole well coordinate piece of legislation which has now been narrowed down to peanuts and for us to say we have no alternative but to accept it, I think is really relegating the Senate to a pretty minor league and I am not going to stand for it.

Sen. Monier: I agree with you except for one thing but for a different reason. My feeling is the same. I have to back up what Sen. Trowbridge has said. I sat in on a couple of the meetings, Senator Downing, Senator Trowbridge and a couple of others worked hard at this and they worked responsibly. At this point, it is a long afternoon and it's hot. I moved earlier that we get out of the special session and I found that most of the time I am still sitting here is because of actions of the leadership of the House. I for one am fed up with it. I will be very honest with you, they are an equal body and they may do what they please but in this particular case I want it on record that my personal belief is that the purpose of this amendment as it came back into the Senate was to kill this bill and did not in any way at all have any respect for the very heavy and articulate work done by the Senate committee in establishing this to cover the whole picture. I think it has been done deliberately, I think the worst thing we can do is to let them get away with it. I would like to pass it and let them be left with it because I think then they are going to have to be responsible to the people that have been owed money that might

have been covered by this had we followed through on what Sen. Trowbridge, Sen. Downing, Sen. Saggiotes, Sen. Blaisdell and others did in a very intricate and in my personal viewpoint, and I don't say this very often in excellent fashion, and I think that has been thrown down the drain on an emotional basis, like a small kid that didn't get his way. My answer is give it back to the kid and let's see him live with it. I am going to support reconsideration.

Sen. Lamontagne: As I said a few minutes ago, at least this is a half of loaf and I think it is better than nothing at all. There is no question about it, the House is all tired out, I am sure that are as tired as I am and they are anxious to get out of here. If we get into another committee of conference it could last for hours. There is no need of us trying to put 400 into 24 because it won't go. We have no other matters that are of interest to the House and therefore what can we do. Personally, I think we ought to accept and therefore I am in favor of accepting what the House has passed.

Sen. Downing: I rise in opposition to the pending motion. I really feel that to alter the position of the Senate would just be to compound an irresponsible action by the House. There is no way we can be fair and equitable in the House's position. I also think, as I mentioned earlier in debate on this bill, there is a real constitutional question doing it for one segment of the industry specifically without applying to the industry equally. This is just one point of it. The other point is that there is just no way this can be equitable. It is a terrible, terrible situation and I don't wish to have any part of it whatsoever and I urge you to defeat the motion and not take any further action on the bill.

Chair: The question before the Senate is on Sen. Saggiotes' motion to reconsider the action whereby we nonconcurred with the House amendment on SB 62 and set up a committee of conference.

Sen. Lamontagne requested a division.

Result: Yeas 8, nays 11

Motion defeated.

Sen. Bradley did not vote under Rule 42.

Sen. Downing moved that Senate Bill 62 be laid on the table.

Motion adopted.

Sen. Sanborn: From the action just taken do I gather the Senate has played directly into Speaker Robert's hands and killed the Belmont track.

Chair: The Chair will say that that is not a parliamentary question. The Chair will state that the only question he can answer are parliamentary questions.

Sen. Downing moved that the Senate adjourn from the early session and the business of the late session be in order at the present time, the reading of bills be by title only and resolutions be by caption only and that all the bills ordered to third reading be read a third time by this resolution and that all titled be the same as adopted and that they be passed by this resolution at the present time and that when we adjourn we adjourn to the call of the chair.

Adopted.

LATE SESSION

Sen. Rock moved that the Senate adjourn to the call of the chair.

Motioned Adopted.

Adjourned 4:20

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The abbreviations listed below are used in this subject index.

adop	adopted
am	amended, amendment
intro	introduced
LT	laid on table
res	resolution

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The abbreviations listed below are used in the Numerical Index:

adop	adopted
am	amended, amendment
com	committee
conc	concurred
conf	conference committee
Died	not reported out of committee
enr	enrolled
H	House
intro	introduced
IP	indefinitely postponed
K	killed
LT	laid on table
nonconc	nonconcurred
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rep	report
SO	special order
study	referred to study committee

SENATE BILLS

SB 1 Delaying the effective date of health and accident insurance coverage for mental illness for 6 months. (Jacobson et al)
1, LT 9-10, psd 15, 17, H nonconc 54

SB 2 Specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public. (Jacobson & Ferdinando)

New title: Specifying where the standard data files maintained by the supervisors of the checklist may be inspected by the public and modifying the time requirement for

additions or corrections to the checklist.

1, am 11-15, psd 17, H nonconc 110

SB 3 Increasing the authorization for boiler replacement at the veterans' home. (Brown et al)

New title: Increasing the authorization for boiler replacement and authorizing repairs to the boiler house at the veterans' home.

2, am 15-16, psd 17, H conc, enr 19 (Chapter 1)

SB 4 To make a supplemental appropriation for the veterans' home. (Brown et al)

2, psd 16-17, H nonconc 110

SB 5 To make mental illness coverage under health and accident insurance optional for insured groups and subscribers. (Ferdinando et al)

2, psd 68-69, 81, H nonconc 110

SB 6 Implementing the staggered registration system for private passenger vehicles (Trowbridge)

2, psd 17, H conc 54, enr 65 (Chapter 3)

SB 7 Permitting any state agency to return to the sender a check, draft or money order received as payment for a fee or license if the amount is incorrect or if application requirements have not been met. (R. Smith)

22, psd 39, 52, enr 109, H conc 110 (Chapter 8)

SB 8 Amending the footnote to the current operating budget for the nurses registration board. (S. Smith)

New title: Making a supplemental appropriation to nurses registration board.

22, am 40-41, psd 52, enr 109, H conc 111 (Chapter 13)

SB 9 Increasing the advertising budget of the liquor commission, regulating expenditures for advertising, and making an appropriation therefor. (Fennelly)

22, am (RC) 60-62, psd 81, conc H am 150, enr am 187, enr 217 Chapter 29)

SB 10 Repealing section 10-a of the Berlin city charter re absentee voting in the annual city elections and repealing the 5-day requirement for correction of the checklist in Berlin. (Lamontagne)

New title: Repealing section 10-a of the Berlin city charter re absentee voting in the annual city elections; providing for the adoption of RSA 60:31-39 re absentee voting in city elections and repealing the 5-day requirement for correction of the checklist in Berlin.

22, psd 28, 52, conc H am 150, enr 186 (Chapter 15)

SB 11 Redefining the term "master electrician" as used in RSA 319-C. (Preston et al)

New title: Redefining the term "master electrician" as used in RSA 319-C and providing a credit for renewal of certain licenses.

22, LT 39-40, psd 46, 52, conc H am 150, enr 186 (Chapter 16)

SB 12 Establishing a special legislative committee to investigate certain aspects of the unemployment compensation law. (Saggiotes)

22, K 50

SB 13 Re the confidentiality of dental review committee proceedings. (Claveau)

New title: Re the confidentiality of dental peer review committee proceedings.
22, psd 46, 52, conc H am 149, enr 186 (Chapter 17)

SB 14 To allow a district court justice to establish the court clerk's salary. (Downing & Rep Sayer of Rock. 5)

22, am 47-48, psd 52, enr 109, H conc 110 (Chapter 12)

SB 15 Continuing the solid waste committee. (Foley & Rep. Greene of Rock. 17)

22, psd 38, 52, enr 109, H conc 110 (Chapter 9)

SB 16 Re money deposited for the future use or rental of a motion picture film. (Ferdinando & Sanborn)

22, study 28

SB 17 Providing funds for the sire stakes fund from a share of the tax on harness horse races; eliminating breakage payments to the sire stakes fund and reducing the holding period for unclaimed pari-mutuel tickets. (Blaisdell & Brown)

22, com changed 25, am 56-60, psd 81, nonconc H am, conf 150, 152, rep adop 202, enr 220 (Chapter 52)

SB 18 Permitting the removal of contents of a safety deposit box by a surviving joint tenant without approval of the department of revenue administration. (Preston)

New title: Re the access rights of survivors of a safety deposit box.

22, LT 28, am 37-38, psd 52, conc H am 150, enr am 187, enr 217 (Chapter 23)

SB 19 Making a supplemental appropriation for the bureau of markets in the department of agriculture. (Bradley)

22, psd, 41, 52, enr 109, H conc 111 (Chapter 14)

SB 20 Making an appropriation to the department of agriculture, water supply and pollution control commission, and the department of entomology, university of N.H. (Bradley)

22, com changed 25, K 50

SB 21 Providing within the program on alcohol and drug abuse, technical assistance to employers and employee organizations in developing programs for early identification and referral to treatment of employees who are affected by alcohol or drugs, and making an appropriation therefor. (Bossie & Rep Copenhagen of Graf. 13)

22, K 49

SB 22 To permit the liquor commission to purchase land in Manchester for locating a state liquor store and making an appropriation therefor. (Provost)

First new title: Permitting the liquor commission to purchase land in Manchester for locating a state liquor store, providing for emergency repairs in the boiler room at the N.H. youth development center and making appropriations therefor; and re the location of the troop A/substation of the state police.

Second new title: Amending the 1975 capital improvement projects by providing for emergency repairs in the boiler room at the N.H. youth development center and making an appropriation therefor; re the location of the state police troop A/substation; re a capital improvement project at Hampton Beach; and re capital improvements at Mt. Monadnock-Gap Mountain.

22, SO 65-66, am (RC) 76-80, psd 81, nonconc H am, conf 150, 152, new conf 240, rep adop 247-248, enr am 249-250, conf rep adop 250, enr 251 (Chapter 53)

SB 23 Reinstating Hesser College as a corporation and ratifying certain degrees granted by them. (Monier & Ferdinando)

22, psd 28-29, 52, enr 109, H conc 110 (Chapter 10)

SB 24 Amending the eligibility requirements to provide for Vietnam bonus payments to those veterans who are otherwise qualified but did not immediately return to N.H. upon discharge from military service. (Claveau)

New title: Re eligibility requirements for the Vietnam veterans' bonus.

22, am 41-42, psd 52, H conc 152, enr am 187-188, enr 217 (Chapter 30)

SB 25 To permit any prospective juror who does not smoke to be discharged from serving as a juror unless non-smoking regulations are stipulated for the jury deliberation room. (Rock)

22, K 46-47

SB 26 Requiring persons convicted of driving while under the influence of intoxicating liquors or controlled drugs to attend a driver retraining program and pay fees therefor which will be used to fund the program. (Jacobson & Ferdinando)

New title: Re a driver alcohol retraining program and re the restoration of driving privileges upon a finding of not guilty of driving under the influence of intoxicating liquors or controlled drugs.

22, SO 49-50, LT 75-76, rcmt 87-93, am & LT 121-127, am 133-135, psd 151, H nonconc, study 186

SB 27 Making a supplemental appropriation to the bank commissioner. (Jacobson & Ferdinando)

First new title: Making a supplemental appropriation to the bank commission, increasing the appropriation for the public defender system in Merrimack county and making a supplemental appropriation to the barbers' board.

Second new title: Making a supplemental appropriation to the bank commission, increasing the appropriation for the public defender system in Merrimack county, making a supplemental appropriation to the barbers' board and making a supplemental appropriation for fiscal 1976 for the indigent defendant program.

22, am 42, psd 52, conc H am 149, enr 186 (Chapter 19)

SB 28 Re the registration and operation of mopeds. (Jacobson & Rep Murray of Bel. 9)

22, am 70-71, psd 81, enr 109, H conc 111 (Chapter 4)

SB 29 Re licensing of diagnostic or treatment facilities. (R. Smith & Blaisdell)

23, psd 66, 81, enr 109, H conc 110 (Chapter 11)

SB 30 Amending the qualification requirements for the directors of the divisions of public health services, welfare, and mental health within the department of health and welfare (Bergeron)

23, com changed 25-26, psd 40, 52, H nonconc, study 151

SB 31 Re limited credits for retailers, vendors and sub-jobbers of tobacco products and increasing the license fees for wholesalers and sub-jobbers and retailers of tobacco

projects. (Rock)
23, LT 116, study 181

SB 32 Re the land sales full disclosure act. (Monier)
23, com changed 25, rcmt 55-56, study 116

SB 33 Upgrading certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor. (Downing)
New title: Upgrading professional staff requirements and certain buildings at Laconia state school to federal intermediate care facility standards and making an appropriation therefor.
23, am 66-68, psd 81, conc H am 152, enr 186 (Chapter 21)

SB 34 To permit the taking of depositions in civil cases by means of video tape recordings. (Bossie)
New title: To permit the taking of depositions by means of video tape recordings.
23, am 62-65, psd 81, H nonconc, study 151

SB 35 Re the sale of liquor and beverages by restaurants on outdoor patios and by nonprofit performing arts facilities. (Foley)
23, LT (RC) 69-70, psd 148-149, 151, conc H am 188, enr 221 (Chapter 51)

SB 36 Re selling sporting event lists by the sweepstakes commission and making an appropriation therefor. (Bossie & Sanborn)
23, LT 112-114, am & IP (RC) 142-148

SB 37 Re the use and possession of intoxicating beverages by pupils on school property. (Jacobson)
23, LT 29

SB 38 Providing for local option approval of the sport of jai alai under the direction and supervision of the state jai alai commission. (Sanborn & Rep. Kashulines of Rock. 3)
23 (Died)

SB 39 Requiring credit card companies to notify credit card holders whenever their records are disclosed to any federal or investigatory agency under court order or subpoena. (Rock)
23, rcmt 71-75, psd 114-116, 151, H nonconc, study 186

SB 40 Amending a contributory pension system for employees of the city of Manchester, based on an actuarial study of contributions and payments to replace the existing pay-as-you-go system. (Bossie et al)
23, am 48-49, psd 52-53, conc H am 149, enr am 186-187, enr 217-218 (Chapter 24)

SB 41 Permitting the placement of persons in need of supervision in certain shelter care facilities. (Bradley)
23, SO (RC) 43-45, rcmt 75, study 112

SB 42 Re the dissemination of hard-core pornographic materials. (Foley & Rep. Krasker of Rock 22)
New title: Amending the laws re obscenity and exposing minors to harmful materials

and requiring the house and senate judiciary committees to study the need for additional changes in pornography laws.

23, psd 45-46, 52, nonconc H am, conf 188, 219, new conf 238, rep adop 244-245, 250, enr 250 (Chapter 46)

SB 43 Revising the economic poisons law. (Bradley)

New title: Revising the economic poisons law and permitting the application of mosquito larvae control compounds under certain conditions.

23, psd 38, 52, conc H am 149, enr am 187, enr 218 (Chapter 18)

SB 44 Re changes in the fuel adjustment charges of public utilities. (Rock & Monier)

New title: Re changes in the fuel adjustment charges of public utilities, establishing a legislative utility consumers' council and making an appropriation therefor.

23, psd (RC) 29-37, 52, nonconc H am, LT 150-151, nonconc H am, conf (RC) 198-202, 219, rep adop 245-247, 250, enr 250, veto overridden (RC) 251-256, 265 (Chapter 58)

SB 45 To increase the maximum interest payable on bonds issued by a housing authority. (Ferdinando)

51, psd 84, 101, H conc 152, enr 186 (Chapter 20)

SB 46 Authorizing the commissioner of safety to grant certain department of safety employees police powers for certain circumstances. (Jacobson)

51, study (RC) 85-87

SB 47 Permitting the gross weight on the interstate highway system as authorized by the Federal Aid Highway Amendments of 1974. (Lamontagne)

(RC) 51-52, am (2 RC's) 95-100, psd 101 (H LT)

SB 48 Re the appropriation for capital improvements at the state prison. (Brown et al)

New title: Re appropriations for capital improvements for certain state agencies and departments; decreasing the appropriation for maintenance repairs at the state prison and extending the 1973 highway betterment appropriation.

83, am 127-130, psd 151, nonconc H am, conf 198, 219, rep adop 237-238, enr 250 (Chapter 37)

SB 49 Re the operation of the print shop in the office of the commissioner of resources and economic development. (Monier)

83, psd 112, 151, H nonconc, study 186

SB 50 Re property tax exemptions allowed to surviving spouses of veterans and establishing the termination date of the Viet Nam conflict for veterans' exemption purposes. (Downing et al)

83, am 93-94, psd 101, nonconc H am, conf 152, 186, rep adop 202, enr 241 (Chapter 42)

SB 51 Repealing the liability of a husband for payment of his wife's resident tax. (Downing & Foley)

New title: Re the liability of a husband or wife for payment of the other spouse's resident tax.

83, am 94, psd 101, H nonconc, study 186

- SB 52** To eliminate literacy tests for voters. (Sanborn & S. Smith)
83, psd 112, 151, enr 185, H conc 186 (Chapter 28)
- SB 53** Re workmen's compensation coverage for domestic employees. (Monier et al)
83, psd 112, 151, H nonconc, study 186
- SB 54** To give the superior court injunctive power over certain motor carrier activities.
(Rock & Monier)
83, LT 135-138, psd 142, 151, enr 185, H conc 186 (Chapter 22)
- SB 55** Re the payment of school building aid money to the Sanborn regional school district. (Brown)
New title: Re the payment of school building aid money to the Sanborn and Timberlane regional school districts and the Wakefield school district.
83, am 116-120, psd 151, H nonconc, study 186
- SB 56** Re the tax exemption of land and buildings owned by the state and its political subdivisions. (Monier)
83 (Died)
- SB 57** Establishing the N.H. incentive program combining grants and loans and making an appropriation therefor. (Rock & Jacobson)
intro & psd 130-133, 151, conc H am 182, enr am 204-205, enr 219 (Chapter 27)
- SB 58** To provide for the licensing of plumbers. (Ferdinando)
intro & study 138
- SB 59** Re the authority of the state board of education to remove or to authorize the employment of superintendents, assistant superintendents, teacher consultants and business administrators. (Bradley)
intro & psd 138-142, 151, H nonconc, study 186
- SB 60** Re the power of Franconia College to grant degrees. (S. Smith)
intro & psd 264-265, H conc 268, enr 270 (Chapter 59)
- SB 61** Re the payment of the residence tax in order to obtain an operator's license or register a motor vehicle under the staggered registration system. (Jacobson)
intro & psd 172-176, 185 (H study)
- SB 62** Re financial security of horse and dog race licensees; re a temporary adjustment of the tax on dog racing, and making an adjustment in the tax on harness horse races. (Trowbridge et al)
intro & psd 211-217, 219, nonconc H am, conf 268-270, recon & LT 270-272
- SB 63** Establishing a committee to make recommendation to the governor re judicial appointments. (Jacobson)
265-267 (Died)

SENATE JOINT RESOLUTION

SJR 1 Establishing a special committee to study tax reform at all levels of government. (Blaisdell et al)
21-22, LT 51, psd 149, 151, nonconc H am, conf 188-189, 219, new conf 220, rep adop 237, 238, enr 250, veto sustained (RC) 256-264

SENATE CONCURRENT RESOLUTION

SCR 1 To petition Congress to call a convention to propose an amendment to the United States Constitution to require a balanced federal budget, except in a national emergency. (Monier & Trowbridge)
26, adop 50 (Died)

HOUSE BILLS

HB 1 Making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution.

New title: Making a supplemental appropriation to the state treasurer, retirement division for the state share of the normal contribution and re group I disability retirement benefits of the N.H. retirement system and amending the estimates of unrestricted revenue in the 1975 operating budget.

109, am 153-156, psd 171, H nonconc, conf 204, rep adop 238-240, 248, enr 250 (Chapter 35)

HB 2 Making a supplemental appropriation to the operating budget of the secretary of state for expenses related to the decennial renewal of voluntary corporation charters.

New title: Making supplemental appropriations to certain state agencies; amending the law re the use of revenue sharing funds and re agreements under the Trade Act of 1974.

110, am 161-163, psd 171, H nonconc, conf 204, new conf 220, rep adop 224-225, 248, enr 250 (Chapter 34)

HB 3 To redefine professional nursing to include the performance of certain medical functions in collaboration with physicians or dentists licensed in other states and Canada.

54, psd 84-85, 101, enr 109 (Chapter 5)

HB 4 To alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance.

New title: To alter the minimum mental illness coverage requirements under major medical and non-major medical accident and health insurance and to decrease grants to community mental health services.

152, com changed 153, am (RC) 205-211, psd 219, H nonconc, conf 219, rep adop 232-236, 248, enr am 250, enr 251 (Chapter 57)

HB 6 Improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and making an appropriation therefor.

New title: Improving the benefits under the present health plan and increasing the state's payment of group hospital and medical insurance for state employees and certain university system employees and making an appropriation therefor.
152, am 189-193, psd 203, H conc 218, enr 220-221 (Chapter 50)

HB 7 Defining the responsibility for the planning of sewerage projects in the Win-nipесаukee River basin; defining project allocation under PL 92-500; and making an appropriation for algae control in the surface waters of the state.
109, am 156-158, psd 171, H nonconc, conf 204, rep adop 221, 243, enr 250 (Chapter 43)

HB 8 Making a supplemental appropriation to the operating budget of the state prison for riot related and other expenses and changing the operating budget of the N.H. youth development center.
110, am 163-166, psd 171-172, H conc 204, enr 237 (Chapter 41)

HB 10 Making an appropriation to reimburse mental health facilities under the medicaid program.
109, am 158-159, psd 171, H conc 204, enr 221 (Chapter 36)

HB 11 Re the administrative procedures act.
110, study 183

HB 16 Legalizing the regular town meeting in the towns of Rye, Lee, Exeter, Enfield, Alton and Madbury; legalizing the special town meetings in the town of Woodstock; legalizing the meeting in Newmarket, legalizing a meeting of the Belknap county convention and authorizing the town of Carroll to borrow money to meet operating expenses.

New title: Legalizing certain meetings in the towns of Rye, Lee, Exeter, Enfield, Ellsworth, Alton, Madbury, Newmarket and Woodstock; legalizing a meeting of the Belknap county convention; authorizing the town of Carroll to borrow money for operating expenses; authorizing restaurant beverage licenses in New Hampton; naming the state owned bridge in Hooksett, the "Hooksett Memorial Bridge"; and redefining the term "open space land" as used in the current use taxation law.
110, am 169-171, psd 172, H nonconc, conf 203-204, rep adop 222-223, 243, enr am 248-249, enr 251 (Chapter 47)

HB 18 Establishing maximum noise levels for motorboats.
54, psd 93, 101, enr 109 (Chapter 6)

HB 21 Making an appropriation for operating and capital expenses of the department of health and welfare.
109, am 159-161, psd 171, H nonconc, conf 204, new conf 220, rep adop 223-224, 243, enr am 249, enr 251 (Chapter 55)

HB 22 Re the medical-dental staff of N.H. hospital.
110, psd 181-182, 185, enr am 220, enr 250 (Chapter 44)

HB 24 Making an appropriation for capital improvements.
152, am 195-197, psd 203, H conc 218, enr 221 (Chapter 38)

HB 25 Re extension of time limits for eliminating burning dumps in certain towns.
54, psd 83-84, 101, enr 109 (Chapter 7)

HB 26 Re the organizational convening of the general court.
54, am 197, psd 203, H nonconc, conf 218, rep adop 222, 243, enr 250 (Chapter 45)

HB 30 Making a supplemental appropriation to the division of mental health and the division of welfare for medical assistance recipients who are 65 years or older and are patients of psychiatric institutions.
28, psd 45, enr 65 (Chapter 2)

HB 32 Increasing the appropriation for the bureau of outdoor recreation grant eligibility program.

New title: Increasing the appropriation for the bureau of outdoor recreation grant eligibility program and providing that the office of comprehensive planning shall do the planning required for eligibility under the bureau of outdoor recreation program, re the outdoor recreation planning program; and increasing the appropriation for snow making and snow grooming.

110, am 166-169, psd 172, H nonconc, conf 204, rep adop 230-232, 248, enr am 249, enr 251 (Chapter 54)

HB 33 Guaranteeing freedom of speech, full right to criticism and disclosure for all state employees.

110, study (2RC's) 177-181

HB 36 To provide for one additional alternate for the superior court review division.
110, psd 183, 185, enr 218 (Chapter 25)

HB 38 Amending RSA 173-A, the dangerous sexual offenders law.
110, psd 197-198, 203, enr 221 (Chapter 39)

HB 39 Making consistent the criminal code provisions dealing with pre-sentence credit for confinement.

110, psd 183, 185, enr 218 (Chapter 32)

HB 42 To prohibit employment of illegal aliens and to correct a citation in the penalty provision of RSA 275-A.

New title: To prohibit employment of illegal aliens, to correct a citation in the penalty provision of RSA 275-A and to remove licensing and employment restrictions on legal aliens.

110, am 183-184, psd 185, H conc 204, enr 217 (Chapter 31)

HB 43 To add statutory construction provisions to the RSA chapter on the N.H. housing finance agency.

110, psd 182-183, 185, enr 218 (Chapter 26)

HB 44 Extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977.

New title: Extending the appropriation to complete fish and game hatchery at Milford to June 30, 1977; amending a footnote to the current operating budget for the fish and game department; repealing the provisions re fish and game unexpended fund

balance; amending the provisions re fish and game control of expenditures; and providing for the continuation of the coho salmon program.

110, am 156, psd 171, H nonconc, conf 204, rep adop 221-222, 243, enr 250 (Chapter 56)

HB 46 Increasing the salary of the director of state police and making an appropriation therefor.

New title: Increasing the salary of the director of state police and making an appropriation therefor; and establishing a joint legislative committee to study the inequities in the salary ranges of unclassified state employees.

152, am (RC) 193-195, psd 203, enr 221 (vetoed)

HB 47 Providing for the payment of wages by electronic fund transfer.

110, psd 182, 185, enr 221 (Chapter 48)

HB 48 Re changing the rate of the tobacco sale discount.

110, psd 181, 185, enr 221 (Chapter 49)

HB 49 Providing for free distribution of the 1975 general court journals to members thereof.

110, am 218, psd 219, H conc 219, enr 221 (Chapter 40)

HB 50 Providing that town meeting day shall be the second Tuesday in March.

New title: Providing that town meeting day shall be the second Tuesday in March and providing that the New Hampshire presidential preference primary shall be first in the nation.

110, LT 176-177, psd 184-185, enr am 211, enr 221 (Chapter 33)

HOUSE CONCURRENT RESOLUTIONS

HCR 1 Re supporting the re-enactment of the general revenue sharing program.
80 (Died)

HCR 2 Instructing the secretary of state to notify town and city clerks not to use literacy tests in registering voters.

110, adop 183

HCR 4 Establishing procedures for committees of conference.

188 (Died)

HCR 5 Establishing a committee to study the need of the general court for nursing and first aid services at late night sessions.

250, adop 268

HCR 7 Commending the secretary of state, Robert L. Stark.

intro & adop 270

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